

[EXTERNAL] July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 202 - State Parks Infrastructure, Park Improvements, and Inf...

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From Roslyn Cummings <roslyncummings@ymail.com>

Date Fri 7/24/2026 7:24 AM

To DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAII

IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 202 - State Parks Infrastructure, Park Improvements, and Infrastructure System Improvements, Kekaha Kai State Park, North Kona, Hawaii Island)

NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED INFRASTRUCTURE PROJECTS AT KEKAHA KAI STATE PARK

## SECTION I. NOTICE OF SPECIAL APPEARANCE

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaina, and Kanaka Maoli, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding **Agenda Item L-1** ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to **State Parks Infrastructure, Park Improvements, and Infrastructure System Improvements** under Division of State Parks (LMR 202) impacting **Kekaha Kai State Park** (including Mahaiula, Makalawena, and Maniniowali / Kua Bay), North Kona, Hawaii Island.

This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water

rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Ancestral Kuleana over Wai, Kai, Wai Kai, Koa, Papa, Pana Wai, One, and Wahi Pana;
5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## **SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION & AFFIRMATION OF THE RULE OF LAW**

Declarant hereby clarifies for the record: **Declarant is not opposed to lawful maintenance, necessary upkeep, or public infrastructure updates.** Rather, Declarant insists upon strict compliance with the **Rule of Law**, procedural due process, mandatory statutory reviews, and constitutional protections prior to the expenditure of public funds or physical ground disturbance.

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. **Procure, award, and enter into contracts** for plans, design, construction, access road maintenance, gate installations, parking lot work, comfort station renovations, utility upgrades, wastewater systems, and infrastructure improvements at Kekaha Kai State Park prior to public board review of site-specific engineering plans, archaeological inventory surveys, and environmental evaluations;
2. **Unilaterally declare construction exempt** from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for park infrastructure, heavy machinery access, road paving, utility trenching, and coastal lava/dune modifications without public contested case opportunities or board review; and
3. **Bypass site-specific public oversight** over ground disturbance, heavy vehicle traffic, subsurface utility installations, and commercialization within the

exceptionally sensitive coastal ecosystems, anchialine pond networks, and archaeological complexes of Kekaha Kai.

### **SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING**

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. **Ancestral Kuleana over Kekaha Kai, North Kona Coastal Lands, and Ecosystems:** The coastal wilderness, anchialine ponds, and ancient trails targeted for state park infrastructure projects across Kekaha Kai State Park (encompassing Mahaiula, Makalawena, and Maniniowali) represent irreplaceable cultural landscapes, royal fishing grounds, and sacred burial corridors. Declarant holds direct ancestral **Kuleana** "an inherent, non-delegable duty and lineage-based authority" to protect and preserve these lands, waters, and sacred sites under the Rule of Law.
2. **Liawahine Lineage to Hawaii Island & Chief Kaikioewa as Hanai Father of Kauikeaouli:**
  - **Liawahine Lineage to Hawaii Island:** Declarant's ancestral bloodlines trace directly through the **Liawahine** lineage rooted in Hawaii Island (including Ookala, Hamakua, Kohala, and Kona districts).
  - **Chief Kaikioewa & Kauikeaouli (Kamehameha III):** Within the Kualu ancestral lineage, **Chief Kaikioewa** served as the honored **hanai father and kahu** to **Kauikeaouli** (Kamehameha III). Kaikioewa held governing authority across Kona and North Kona, establishing a direct genealogical, historical, and cultural obligation (*kuleana*) to safeguard ancestral coastal lands across Kekaha Kai.
3. **High Density of Archaeological Sites, Fragile Anchialine Ponds, & Iwi Kupuna in Kekaha Kai:**
  - **Anchialine Pond Networks (Wai Kai):** Kekaha Kai State Park, particularly around Makalawena and Mahaiula, contains world-class, extremely fragile brackish anchialine pond ecosystems (*wai kai*). These ponds host endemic species, sub-surface freshwater springs (*pana wai*), and historical aquaculture/gathering grounds that are vulnerable to road runoff, dust, wastewater seepage, and ground compaction.
  - **High Density of Wahi Pana & Ancestral Burials:** The coastal sand dunes (*one*), lava fields, and coastal caves of Kekaha Kai contain an extraordinary density of prehistoric and historic Native Hawaiian archaeological sites, including the ancient Ala Kahakai trail system, stone house platforms, heiau, fishing shrines (*ko a*), and burials (*iwi kupuna*). Unmonitored trenching, heavy road grading, parking area expansion, or

utility trenching carries an extremely high probability of disturbing intact, unmarked *iwi kupuna*.

4. **Systemic Environmental Protection of Coastal, Marine, and Hydrological Systems:** The Kekaha Kai park footprint encompasses vital natural resources: subterranean freshwater springs (*pana wai*), ocean waters (*kai*), brackish anchialine ecosystems (*wai kai*), sand dunes (*one*), living coral structures (*koa* and *papa*), and native species, including **honu** (green sea turtle), **i a** (native fish), **limu** (seaweed), and **pueo** (short-eared owl). Heavy vehicle traffic, unvetted park expansions, or inadequate waste disposal threaten the delicate ecological balance of North Kona's coastline.

5. **Evidentiary Submission of Lineal Standing:**

- **Direct Lineal Descent & Ancestral Lineages:** Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (*O iwi o Ku u iwi, o koko o Ku u koko*). Declarant's direct paternal ancestral lineage traces through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.
- **Direct Lineage through William Kualu & Helen Liawahine Haupū:** Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born to Kawahi (Kauahi), married to **Helen Liawahine Haupū** (carrying the Hawaii Island Liawahine lineage). William Kualu is the father of Declarant's great-grandmother, Helen Lahapa Kamakaeha Kualu; mother of Declarant's grandmother, Aileen Kawaikini Ipac; mother of Declarant's mother, Darlene Joyce Rita.
- **Authority and Preserved Rights:** William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. As a direct lineal descendant carrying the bloodlines of Nahinu Malama, William Kualu, Liawahine, and the Kualu ancestral connections to Kaikioewa, Declarant holds inherited, vested tenant rights (*Ua Koe Nae Na Kuleana O Na Kanaka*) running with land, water, and ancestral resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.

6. **Objection to Unvetted Kekaha Kai Infrastructure Projects:** Declarant formally objects to Item L-1 CIP funding authorizations and delegations for Kekaha Kai State Park where site-specific project engineering plans, anchialine pond mitigation protocols, environmental assessments, and cultural protection plans have been omitted from the administrative record prior to board authorization.

## **SECTION IV. APPLICATION OF KONANE AND MAKAWALU TO KEKAHA KAI INFRASTRUCTURE**

## A. Konane Analysis (Strategic Land Mapping & Multi-Generational Impact)

*Konane* demands evaluating Kekaha Kai development as strategic moves on an interconnected landscape:

1. **Intensive Ground Disturbance vs. Anchialine & Archaeological Sites:** Road grading, heavy machinery movement, or comfort station trenching near Makalawena, Mahaiula, or Maniniowali risks permanent physical destruction of unrecorded burials (*iwi kupuna*), ancient trail alignments, and fragile anchialine pond basins (*wai kai*).
2. **Subsurface Hydrology & Runoff:** Unpaved access road modifications or new paving can redirect dust, gravel, and automotive petroleum runoff into subterranean freshwater channels (*pana wai*), causing irreversible harm to anchialine organisms and nearshore coral reef health (**koa** and **papa**).

## B. Makawalu Analysis (Eight-Fold Multi-Perspective Perception)

1. **Sacred Geography & Ancient Trails:** Protection of historic stone trails (Ala Kahakai), house sites, fishing shrines, and royal grounds.
2. **Protection of Ancestral Burials (Iwi Kupuna):** Enforcing strict burial site procedures under HRS Chapter 6E given the high density of coastal cave and sand dune burial complexes in North Kona.
3. **Terrestrial & Avian Ecosystems:** Safeguarding native coastal strand vegetation and habitat for the **pueo**.
4. **Anchialine & Freshwater Hydrology (Wai, Wai Kai, Pana Wai):** Direct protection of brackish anchialine ponds and subterranean freshwater springs from sedimentation, fuel runoff, or wastewater seepage.
5. **Coastal & Marine Interfaces (Kai, Koa, Papa):** Preventing park runoff or heavy visitor use from degrading nearshore coral reefs and habitat for **honu**, **i a**, and **limu**.
6. **Subsurface Voids & Lava Tubes:** Comprehensive mapping of subterranean lava tubes and coastal caves prior to road heavy grading or infrastructure footings.
7. **Customary & Traditional Access:** Ensuring state park access policies or gating do not restrict traditional Kanaka Maoli access for subsistence gathering, fishing, or religious practice.
8. **Rule of Law & Statutory Integrity:** Requiring full compliance with HRS Chapters 6E, 91, 205A, and 343 prior to project execution or delegation.

## SECTION V. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing Kekaha Kai infrastructure is subject to a continuous hierarchy of legal obligations:

- **A. Hawaiian Kingdom Law Foundation**

- *He Kumu Kanawai (1839)*: "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected).
- *Kumukanawai (1840)*: Establishes constitutional protections for persons and property, ensuring rights in land and resources remain protected.
- *Mahele Principles*: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land distributions remained subject to tenant rights.
- *Civil Code of 1859*: Codifies appurtenant rights, water rights, and traditional tenant usage.
- **B. United States Federal Framework**
  - Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.
  - Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.
  - First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.
- **C. Hawaii State Constitution**
  - Article I, Section 1: Inalienable rights to life, liberty, property, and safety.
  - Article XI, Section 1 & 9: Public Trust Doctrine governing natural, cultural, and historical resources.
  - Article XII, Section 7: Mandatory protection of traditional and customary Native Hawaiian rights.
- **D. Hawaii Revised Statutes**
  - HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.
  - HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water and natural resources.
  - HRS Chapter 205A: Coastal Zone Management Act protecting coastal ecosystems, sand dunes, and historic resources.
  - HRS Chapters 91, 343, 6E, and 6E-43: Administrative Procedure Act, Environmental Impact Statements, Historic Preservation, and Burial Site Protections.

## **SECTION VI. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (KEKAHA KAI)**

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment for Kekaha Kai State Park:

- **Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:** The Board must explicitly identify all cultural,

historical, surface, or subsurface resources within the Kekaha Kai footprint—including anchialine ponds (*wai kai*), Ala Kahakai trail segments, subterranean springs (*pana wai*), sand dunes (*one*), coastal caves, marine life (**honu, i a, limu**), living coral reefs (**koa** and **papa**), and customary practices (*Ka Paakai*, 94 Haw. at 47; *Kalipi*, 66 Haw. 1; *Pele Defense Fund*, 73 Haw. 578).

- **Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:** The Board must evaluate the extent to which identified resources, *iwi kupuna*, anchialine ponds, ancient trails, and customary gathering will be affected or impaired by road grading, parking work, comfort station construction, or utility trenching (*Ka Paakai*, 94 Haw. at 47).
- **Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:** The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including non-invasive subsurface mapping (GPR), mandatory archaeological monitoring, anchialine pond buffer zones, strict erosion controls, and unimpeded cultural access (*Ka Paakai*, 94 Haw. at 47; *PASH*, 79 Hawaii 425).

## SECTION VII. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval impacting Kekaha Kai State Park:

1. Location-specific project designs, engineering plans, and access road maintenance plans for Kekaha Kai State Park;
2. Archaeological Inventory Surveys (AIS) approved by the State Historic Preservation Division (SHPD) and Burial Treatment Plans under HRS Chapter 6E for Mahaiula, Makalawena, and Maniniowali;
3. Hydrological assessments and anchialine pond protection plans for project work near brackish ponds;
4. Subsurface ground-penetrating radar (GPR) and lava tube mapping reports for areas subject to ground disturbance;
5. HRS Chapter 343 environmental evaluations or formal exemption justifications;
6. Coastal Zone Management (HRS Chapter 205A) consistency assessments;
7. Cultural Impact Assessments (CIA) and formal *Ka Paakai* analytical findings; and
8. Runoff, dust suppression, and marine water quality protection plans.

## SECTION VIII. PRAYER FOR RELIEF

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out all **Kekaha Kai State Park projects and allocations** from the blanket delegation of authority under **Agenda Item L-1**;
2. Defer administrative action, procurement, or contract execution regarding Kekaha Kai State Park pending completion and publication of site-specific project records;
3. Uphold the **Rule of Law** and disallow unvetted excavation, road grading, trenching, or construction prior to full environmental, archaeological, and cultural review;
4. Enforce ancestral **Kuleana** and adopt Konane strategic land mapping and Makawalu eight-fold protection criteria;
5. Complete statutory environmental (HRS Chapter 343), coastal zone (HRS Chapter 205A), and historic preservation (HRS Chapter 6E) reviews;
6. Execute and publish the mandatory three-part *Ka Paakai* analysis for Kekaha Kai State Park; and
7. Protect persons, property, public health and safety, anchialine ponds (*wai kai*), *iwi kupuna*, ancient trails, marine life (**honu, i a, limu**), living reef systems (**koa and papa**), and inherited tenant rights.

DATED: Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea Malama Cummings Na Kanaka Hooilina Hoaaina  
Kanaka Maoli All Rights Reserved Without Prejudice

[EXTERNAL] July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 202 - State Parks Infrastructure, Park Improvements, and Inf...

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From Roslyn Cummings <roslyncummings@ymail.com>

Date Fri 7/24/2026 7:21 AM

To DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES  
STATE OF HAWAII  
IN THE MATTER OF:

July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 202 - State Parks Infrastructure, Park Improvements, and Infrastructure System Improvements, Hapuna Beach State Recreation Area, South Kohala, Hawaii Island)

NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED INFRASTRUCTURE PROJECTS AT HAPUNA BEACH

#### SECTION I. NOTICE OF SPECIAL APPEARANCE

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding Agenda Item L-1 ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to State Parks Infrastructure, Park Improvements, and Infrastructure System Improvements under Division of State Parks (LMR 202) impacting Hapuna Beach State Recreation Area, South Kohala, Hawaii Island. This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Ancestral Kuleana over Wai, Kai, Wai Kai, Koa, Papa, Pana Wai, One, and Wahi Pana;

5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION & AFFIRMATION OF THE RULE OF LAW

Declarant hereby clarifies for the record: Declarant is not opposed to lawful maintenance, necessary upkeep, or public infrastructure updates. Rather, Declarant insists upon strict compliance with the Rule of Law, procedural due process, mandatory statutory reviews, and constitutional protections prior to the expenditure of public funds or physical ground disturbance.

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. Procure, award, and enter into contracts for plans, design, construction, comfort station renovations, road paving, utility upgrades, wastewater systems, and infrastructure improvements at Hapuna Beach prior to public board review of site-specific engineering plans, archaeological inventory surveys, and environmental evaluations;
2. Unilaterally declare construction exempt from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for heavy park infrastructure, shoreline modifications, utility trenching, and ground disturbance without public contested case opportunities or board review; and
3. Bypass site-specific public oversight over ground disturbance, heavy vehicle access, subsurface wastewater installations, and commercial activity within the fragile coastal dune system of Hapuna.

## SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. Ancestral Kuleana over Hapuna Beach and Kohala Coastal Lands:

The coastal lands and waters targeted for state park infrastructure projects at Hapuna Beach, South Kohala, encompass delicate shoreline sand dune complexes, coastal trails, and ancestral living spaces. Declarant holds direct ancestral Kuleana—an inherent, non-delegable duty and lineage-based authority—to protect and preserve these lands, waters, and sacred sites under the Rule of Law.

2. Liawahine Lineage to Hawaii Island & Chief Kaikioewa as Hanai Father of Kauikeaouli:  
Liawahine Lineage to Hawaii Island: Declarant's ancestral bloodlines trace directly through the Liawahine lineage rooted in Hawaii Island (including Ookala, Hamakua, Kohala, and Kona districts).

Chief Kaikioewa & Kauikeaouli (Kamehameha III): Within the Kualu ancestral lineage, Chief Kaikioewa served as the honored hanai father and kahu to Kauikeaouli (Kamehameha III). Kaikioewa held significant governing authority across Hawaii

Island and Kauai, creating a direct genealogical, historical, and cultural obligation (kuleana) to safeguard ancestral lands across Moku O Keawe.

3. High Probability of Iwi Kupuna in Hapuna Coastal Sand Dunes (One) & Wahi Pana:

High Probability of Iwi Kupuna & Documented Past Finds: The extensive coastal sand dune system (one), sandy pockets, and lava interfaces of Hapuna Beach have an established history of containing Native Hawaiian burials (iwi kupuna). Extensive past finds, inadvertent exposures caused by coastal erosion, and documented archaeological records confirm that unmonitored trenching, utility excavation, or heavy machinery operation within Hapuna Beach State Recreation Area carries an extremely high probability of disturbing intact, unmarked iwi kupuna.

Cultural Resources & Trail Networks: The Hapuna coastal corridor contains remnants of the ancient Ala Kahakai trail system, historic stone features, temporary habitation sites, and coastal fishing grounds that require mandatory historic preservation protection.

4. Systemic Environmental Protection of Coastal, Marine, and Hydrological Systems:

The Hapuna state park footprint encompasses vital natural resources: subterranean freshwater discharge (pana wai), marine waters (kai), brackish ecosystems (wai kai), extensive sand dunes (one), living coral structures (koa and papa), and native wildlife, including honu (green sea turtle), i a (native fish), limu (seaweed), and pueo (short-eared owl). Subsurface wastewater disposal systems, cesspool conversions, or unmonitored stormwater runoff from park parking lots directly threaten nearshore coral reefs and public health.

5. Evidentiary Submission of Lineal Standing:

Direct Lineal Descent & Ancestral Lineages: Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (O iwi o Ku u iwi, o koko o Ku u koko). Declarant's direct paternal ancestral lineage traces through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.

Direct Lineage through William Kualu & Helen Liawahine Haupu: Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born to Kawahi (Kauahi), married to Helen Liawahine Haupu (carrying the Hawaii Island Liawahine lineage). William Kualu is the father of Declarant's great-grandmother, Helen Lahapa Kamakaeha Kualu; mother of Declarant's grandmother, Aileen Kawaikini Ipac; mother of Declarant's mother, Darlene Joyce Rita.

Authority and Preserved Rights: William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. As a direct lineal descendant carrying the bloodlines of Nahinu Malama, William Kualu, Liawahine, and the Kualu ancestral connections to Kaikioewa, Declarant holds inherited, vested tenant rights (Ua Koe Nae Na Kuleana O Na Kanaka) running with land, water, and ancestral resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.

6. Objection to Unvetted Hapuna Infrastructure Projects:

Declarant formally objects to Item L-1 CIP funding authorizations and delegations for Hapuna Beach State Recreation Area where site-specific project engineering plans,

wastewater management designs, environmental assessments, and cultural protection plans have been omitted from the administrative record prior to board authorization.

## SECTION IV. APPLICATION OF KONANE AND MAKAWALU TO HAPUNA BEACH INFRASTRUCTURE

### A. Konane Analysis (Strategic Land Mapping & Multi-Generational Impact)

Konane demands evaluating Hapuna Beach development as strategic moves on an interconnected landscape:

1. Intensive Ground Disturbance vs. Coastal Burials: Excavation for comfort station plumbing, leach fields, or expanded parking within coastal sand dunes (one) risks permanent physical disruption of unrecorded burials (iwi kupuna) and historical trail networks.
2. Subsurface Hydrology & Effluent Runoff: Improperly planned wastewater systems or paving can alter underground freshwater springs (pana wai) and introduce nutrient contamination into coastal waters, degrading coral reefs (koa and papa) and marine life.

### B. Makawalu Analysis (Eight-Fold Multi-Perspective Perception)

1. Sacred Geography & Coastal Sand Dunes: Protection of sand dune formations (one), coastal caves, and historical trails (Ala Kahakai corridor).
2. Protection of Ancestral Burials (Iwi Kupuna): Enforcing strict burial site procedures under HRS Chapter 6E given the high density of past burial finds in South Kohala sand dunes.
3. Terrestrial & Avian Ecosystems: Safeguarding native coastal strand vegetation and habitat for the pueo.
4. Freshwater Hydrology (Wai, Pana Wai): Protection of subterranean coastal aquifers and freshwater discharge zones from septic leakage or urban runoff.
5. Coastal & Marine Interfaces (Kai, Wai Kai, Koa, Papa): Preventing park effluent from polluting nearshore marine waters and damaging habitat for honu, i a, and limu.
6. Subsurface Voids & Lava Tubes: Mapping subterranean lava tube networks prior to heavy machinery operation or earthmoving.
7. Customary & Traditional Access: Ensuring state park operations do not impede traditional Kanaka Maoli access for subsistence fishing, gathering, or religious practices.
8. Rule of Law & Statutory Integrity: Requiring full compliance with HRS Chapters 6E, 91, 205A, and 343 prior to project execution or delegation.

## SECTION V. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing Hapuna Beach infrastructure is subject to a continuous hierarchy of legal obligations:

### A. Hawaiian Kingdom Law Foundation

He Kumu Kanawai (1839): "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected).

Kumukanawai (1840): Establishes constitutional protections for persons and property, ensuring rights in land and resources remain protected.

Mahele Principles: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land distributions remained subject to tenant rights.

Civil Code of 1859: Codifies appurtenant rights, water rights, and traditional tenant usage.

### B. United States Federal Framework

Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.

Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.

First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.

#### C. Hawaii State Constitution

Article I, Section 1: Inalienable rights to life, liberty, property, and safety.

Article XI, Section 1 & 9: Public Trust Doctrine governing natural, cultural, and historical resources.

Article XII, Section 7: Mandatory protection of traditional and customary Native Hawaiian rights.

#### D. Hawaii Revised Statutes

HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.

HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water and natural resources.

HRS Chapter 205A: Coastal Zone Management Act protecting coastal sand dunes, ecosystems, and historic resources.

HRS Chapters 91, 343, 6E, and 6E-43: Administrative Procedure Act, Environmental Impact Statements, Historic Preservation, and Burial Site Protections.

### SECTION VI. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (HAPUNA BEACH)

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment for Hapuna Beach State Recreation Area:

Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:

The Board must explicitly identify all cultural, historical, surface, or subsurface resources within the Hapuna footprint—including burial dunes (one), Ala Kahakai trail segments, subterranean springs (pana wai), marine life (honu, i a, limu), living coral reefs (koa and papa), and customary practices (*Ka Paakai*, 94 Haw. at 47; *Kalipi*, 66 Haw. 1; *Pele Defense Fund*, 73 Haw. 578).

Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:

The Board must evaluate the extent to which identified resources, iwi kupuna, sand dunes, coastal waters, and customary gathering will be affected or impaired by excavation, wastewater system installation, paving, or utility trenching (*Ka Paakai*, 94 Haw. at 47).

Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:

The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including non-invasive subsurface mapping (GPR), mandatory archaeological monitoring, coastal dune protection buffers, strict wastewater management controls, and unimpeded cultural access (*Ka Paakai*, 94 Haw. at 47; *PASH*, 79 Hawaii 425).

### SECTION VII. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval impacting Hapuna Beach:

1. Location-specific project designs, engineering plans, and wastewater infrastructure schematics for Hapuna Beach State Recreation Area;
2. Archaeological Inventory Surveys (AIS) approved by the State Historic Preservation Division (SHPD) and Burial Treatment Plans under HRS Chapter 6E for the park footprint;
3. Subsurface ground-penetrating radar (GPR) and dune mapping reports for areas subject to excavation within known high-probability burial sand dunes;
4. HRS Chapter 343 environmental evaluations or formal exemption justifications;
5. Coastal Zone Management (HRS Chapter 205A) consistency assessments;
6. Cultural Impact Assessments (CIA) and formal Ka Paakai analytical findings; and
7. Runoff, wastewater, and marine water quality protection plans.

#### SECTION VIII. PRAYER FOR RELIEF

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out all Hapuna Beach State Recreation Area projects and allocations from the blanket delegation of authority under Agenda Item L-1;
2. Defer administrative action, procurement, or contract execution regarding Hapuna Beach pending completion and publication of site-specific project records;
3. Uphold the Rule of Law and disallow unvetted excavation, trenching, paving, or wastewater construction prior to full environmental, archaeological, and cultural review;
4. Enforce ancestral Kuleana and adopt Konane strategic land mapping and Makawalu eight-fold protection criteria;
5. Complete statutory environmental (HRS Chapter 343), coastal zone (HRS Chapter 205A), and historic preservation (HRS Chapter 6E) reviews;
6. Execute and publish the mandatory three-part Ka Paakai analysis for Hapuna Beach; and
7. Protect persons, property, public health and safety, coastal sand dunes (one), iwi kupuna, marine life (honu, i a, limu), living reef systems (koa and papa), and inherited tenant rights.

DATED: Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea Malama Cummings

Na Kanaka • Hooilina • Hoaaina • Kanaka Maoli

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[EXTERNAL] IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (Division of Boating and Ocean Recreation LMR 8...

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From Roslyn Cummings <roslyncummings@ymail.com>

Date Fri 7/24/2026 7:14 AM

To DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAII

IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (Division of Boating and Ocean Recreation LMR 801, State Parks LMR 202, and Engineering LMR 102 Infrastructure Improvements, Keauhou, Kona, Hawaii Island)

NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED INFRASTRUCTURE PROJECTS AT KEAUHOU

## SECTION I. NOTICE OF SPECIAL APPEARANCE

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding **Agenda Item L-1** ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to capital improvement, boating facility, small boat harbor, park, and water infrastructure allocations impacting the ahupuaa of **Keauhou**, Moku of Kona, Hawaii Island.

This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water

rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Ancestral Kuleana over Wai, Kai, Wai Kai, Koa, Papa, Pana Wai, and Wahi Pana;
5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## **SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION & AFFIRMATION OF THE RULE OF LAW**

Declarant hereby clarifies for the record: **Declarant is not opposed to lawful maintenance, necessary upkeep, or public infrastructure updates.** Rather, Declarant insists upon strict compliance with the **Rule of Law**, procedural due process, mandatory statutory reviews, and constitutional protections prior to the expenditure of public funds or physical ground disturbance.

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. **Procure, award, and enter into contracts** for plans, design, construction, dock/ramp work, utility upgrades, comfort station renovations, road paving, wastewater systems, and infrastructure improvements prior to public board review of location-specific site plans, archaeological inventory surveys, and environmental evaluations;
2. **Unilaterally declare construction exempt** from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for heavy harbor, park, and shoreline infrastructure, excavation, drainage modifications, and utility trenching near sacred sites without public contested case opportunities or board review; and
3. **Bypass site-specific public oversight** over ground disturbance, heavy vehicle access, subsurface utility installations, commercial vessel operations, and commercialization of sacred wahi pana across Keauhou Bay and surrounding state encumbered lands.

### SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. **Ancestral Kuleana over Keauhou, Sacred Wahi Pana, and Coastal**

**Ecosystems:** The lands and waters targeted for infrastructure projects at Keauhou encompassing Keauhou Bay, the coastal shoreline, adjacent anchialine pools, and historic royal grounds represent sacred cultural centers, battlefields, and royal birthplaces. Declarant holds direct ancestral **Kuleana** an inherent, non-delegable duty and lineage-based authority to protect and preserve these lands, waters, and sacred sites under the Rule of Law.

2. **Refined Lineage Connections: Liawahine Lineage to Hawai'i Island & Chief Kaikioewa as hanai Father of Kauikeaouli:**

- **Liawahine Lineage to Hawai'i Island:** Declarant's ancestral bloodlines trace directly through the **Liawahine** lineage rooted in Hawai'i Island (including Kona districts).
- **Chief Kaikioewa & Kauikeaouli (Kamehameha III):** Within the Kualu ancestral lineage, **Chief Kaikioewa** served as the **hanai father and kahu** to **Kauikeaouli** (Kamehameha III) at his birthplace in Keauhou Bay. Kaikioewa summoned the prophet Kapihe at Kauikeaouli's birth, revived the infant prince, and raised him in Kona during his early years. This creates a direct, undeniable genealogical, historical, and cultural obligation (*kuleana*) to safeguard the sacred grounds of Keauhou Bay where Kauikeaouli was born and raised.

3. **Specific Sacred Structures and High Density of Iwi Kupuna in Keauhou:**

- **Keauhou Sacred Complex:** The Keauhou corridor encompasses internationally significant historic and sacred sites, including **Keeku Heiau**, **Kapuanoni Heiau**, **Kuemanu Heiau** (at the Kahaluu border), the **Keauhou** (National Historic Landmark), the birth site of **Kauikeaouli (Kamehameha III)** at Keauhou Bay, and the solemn **Lekeleke Burial Grounds** (commemorating the 1819 Battle of Kuamoo).
- **High Probability of Iwi Kupuna & Documented Past Finds:** The coastal lava fields, sand pockets (*one*), coastal caves, and alluvial soil layers of Keauhou contain dense concentrations of ancestral Native Hawaiian burials (*iwi kupuna*). Documented historic finds, inadvertent exposures during coastal construction, and established archaeological records confirm that unmonitored earthmoving, utility trenching, or shoreline excavation carries an extremely high probability of disturbing intact, unmarked *iwi kupuna*.

#### 4. **Systemic Environmental and Cultural Protection of Marine and**

**Hydrological Resources:** The Keauhou marine and terrestrial footprint encompasses crucial natural resources: subterranean freshwater springs (*pana wai*), ocean waters (*kai*), brackish anchialine ecosystems (*wai kai*), living coral structures (*koa* and *papa*), and native species, including **honu** (green sea turtle), **i a** (native fish), **limu** (seaweed), **pueo** (short-eared owl), and **hihimanu** (manta rays). Heavy harbor activity, unvetted commercial vessel expansion, and wastewater or runoff discharge threaten the delicate ecological and hydrological balance of Keauhou Bay.

#### 5. **Evidentiary Submission of Lineal Standing:**

- **Direct Lineal Descent & Ancestral Lineages:** Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (*O iwi o Ku u iwi, o koko o Ku u koko*). Declarant's direct paternal ancestral lineage traces through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.
- **Direct Lineage through William Kualu & Helen Liawahine Haupū:** Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born to Kawahi (Kauahi), married to **Helen Liawahine Haupū** (carrying the Hawai'i Island Liawahine lineage). William Kualu is the father of Declarant's great-grandmother, Helen Lahapa Kamakaeha Kualu; mother of Declarant's grandmother, Aileen Kawaikini Ipac; mother of Declarant's mother, Darlene Joyce Rita.
- **Authority and Preserved Rights:** William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. As a direct lineal descendant carrying the bloodlines of Nahinu Malama, William Kualu, Liawahine, and the Kualu ancestral connections to Kaikiopewa, Declarant holds inherited, vested tenant rights (*Ua Koe Nae Na Kuleana O Na Kanaka*) running with land, water, and ancestral resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.

6. **Objection to Unvetted Keauhou Infrastructure Projects:** Declarant formally objects to Item L-1 CIP funding authorizations and delegations impacting Keauhou where site-specific project designs, environmental assessments, and cultural protection plans have been omitted from the administrative record prior to board authorization.

## **SECTION IV. APPLICATION OF KĀĀENANE AND MAKAWALU TO KEAUHOU INFRASTRUCTURE**

## A. Konane Analysis (Strategic Land Mapping & Multi-Generational Impact)

*Konane* demands evaluating Keauhou development as strategic moves on an interconnected landscape:

1. **Intensive Ground Disturbance vs. Sacred Sites:** Trenching for harbor utilities, expanding parking, or upgrading commercial vessel facilities near Kauikeaouli's birthplace or Lekeleke risks permanent physical disruption of unrecorded burials (*iwi kupuna*), historical paving, and ancestral trail networks.
2. **Subsurface Hydrology & Runoff:** Ground modifications, fuel docks, or paved surfaces risk altering sub-surface freshwater discharge (*pana wai*) and contaminating anchialine pools, injuring nearshore **koa, papa, i a, limu**, and **hāhālua**.

## B. Makawalu Analysis (Eight-Fold Multi-Perspective Perception)

1. **Sacred Geography & Wahi Pana:** Protection of ancient stone structures (**Keeku, Kapuanoni, Kuē»emanu**), **Kauikeaouli Birthplace**, and the **Keauhou lua Slide**.
2. **Protection of Ancestral Burials (Iwi Kupuna):** Enforcing strict burial site procedures under HRS Chapter 6E given the proximity to Lekeleke and coastal dune/cave burial sites.
3. **Terrestrial & Avian Ecosystems:** Safeguarding native vegetation and habitat for coastal fauna and the **pueo**.
4. **Freshwater & Anchialine Hydrology (Wai, Wai Kai):** Protection of subterranean freshwater springs (*pana wai*) and anchialine pool ecology from fuel spills, urban runoff, or wastewater seepage.
5. **Coastal & Marine Interfaces (Kai, Koa, Papa):** Preventing harbor runoff from degrading coral reefs and foraging habitat for **honu, i a**, and **hāhālua**.
6. **Subsurface Voids & Lava Tubes:** Mapping subterranean lava tubes and coastal caves prior to heavy machinery operation or piling/footing installations.
7. **Customary & Traditional Access:** Ensuring harbor or park upgrades do not restrict traditional Kanaka Maoli access for gathering, religious ceremonies, or subsistence fishing.
8. **Rule of Law & Statutory Integrity:** Requiring full compliance with HRS Chapters 6E, 91, 205A, and 343 prior to project execution or delegation.

## SECTION V. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing Keauhou infrastructure is subject to a continuous hierarchy of legal obligations:

- **A. Hawaiian Kingdom Law Foundation**

- *He Kumu Kanawai (1839)*: "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected).
- *Kumukanawai (1840)*: Establishes constitutional protections for persons and property, ensuring rights in land and resources remain protected.
- *Mahele Principles*: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land distributions remained subject to tenant rights.
- *Civil Code of 1859*: Codifies appurtenant rights, water rights, and traditional tenant usage.
- **B. United States Federal Framework**
  - Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.
  - National Historic Preservation Act (54 U.S.C. Â§ 300101 et seq.): Federal protections for National Historic Landmarks (Keauhou HÅlua Slide).
  - Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.
  - First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.
- **C. Hawaii State Constitution**
  - Article I, Section 1: Inalienable rights to life, liberty, property, and safety.
  - Article XI, Section 1 & 9: Public Trust Doctrine governing natural, cultural, and historical resources.
  - Article XII, Section 7: Mandatory protection of traditional and customary Native Hawaiian rights.
- **D. Hawaii Revised Statutes**
  - HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.
  - HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water and natural resources.
  - HRS Chapter 205A: Coastal Zone Management Act protecting coastal ecosystems and historic resources.
  - HRS Chapters 91, 343, 6E, and 6E-43: Administrative Procedure Act, Environmental Impact Statements, Historic Preservation, and Burial Site Protections.

## **SECTION VI. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (KEAUHOU)**

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment for Keauhou:

- **Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:** The Board must explicitly identify all cultural, historical, surface, or subsurface resources within the Keauhou footprint's"including **Keeku Heiau, Kapuanoni,l, Kauikeaouli Birthplace, HÅ□lua Slide, Lekeleke Burial Grounds**, anchialine pools, subterranean springs (*pana wai*), marine life (, **honu, i a**), and customary practices (*Ka Paakai*, 94 Haw. at 47; *Kalipi*, 66 Haw. 1; *Pele Defense Fund*, 73 Haw. 578).
- **Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:** The Board must evaluate the extent to which identified resources, sacred structures, *iwi kupuna*, anchialine pools, and customary gathering will be affected or impaired by excavation, paving, boat ramp expansion, or utility trenching (*Ka Paakai*, 94 Haw. at 47).
- **Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:** The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including non-invasive subsurface mapping (GPR), mandatory archaeological monitoring, buffer zones around historic sites, pollution controls for Keauhou Bay, and unimpeded cultural access (*Ka Paakai*, 94 Haw. at 47; *PASH*, 79 Hawaii 425).

## SECTION VII. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval impacting Keauhou:

1. Location-specific project designs, engineering plans, and commercial vessel capacity studies for Keauhou Bay and surrounding parcels;
2. Archaeological Inventory Surveys (AIS) approved by the State Historic Preservation Division (SHPD) and Burial Treatment Plans under HRS Chapter 6E;
3. Subsurface ground-penetrating radar (GPR) and lava tube mapping reports for areas subject to excavation;
4. HRS Chapter 343 environmental evaluations or formal exemption justifications;
5. Coastal Zone Management (HRS Chapter 205A) consistency assessments;
6. Cultural Impact Assessments (CIA) and formal *Ka Paakai* analytical findings; and
7. Runoff, wastewater management, fuel containment, and water quality protection plans.

## SECTION VIII. PRAYER FOR RELIEF

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out all **Keauhou projects, harbors, and infrastructure allocations** from the blanket delegation of authority under **Agenda Item L-1**;
2. Defer administrative action, procurement, or contract execution regarding Keauhou pending completion and publication of site-specific project records;
3. Uphold the **Rule of Law** and disallow unvetted excavation, trenching, dock expansion, or commercialization prior to full environmental, archaeological, and cultural review;
4. Enforce ancestral **Kuleana** and adopt Konane strategic land mapping and Makawalu eight-fold protection criteria;
5. Complete statutory environmental (HRS Chapter 343), coastal zone (HRS Chapter 205A), and historic preservation (HRS Chapter 6E) reviews;
6. Execute and publish the mandatory three-part *Ka Paakai* analysis for Keauhou; and
7. Protect persons, property, public health and safety, sacred wahi pana (**Keeku, Kapuanoni, Kauikeaouli Birthplace, Slide, Lekeleke**), *iwi kupuna*, anchialine pools, marine life (**Mano, hihimanu, honu, i a, limu**), living reef systems (**koa and papa**), and inherited tenant rights.

DATED: Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea Malama Cummings Na Kanaka Hooilina Hoaaina  
Kanaka Maoli All Rights Reserved Without Prejudice

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[EXTERNAL] IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 202 - State Parks Infrastructure, Park Imp...

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From Roslyn Cummings <roslyncummings@ymail.com>

Date Fri 7/24/2026 6:52 AM

To DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAII

IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 202 - State Parks Infrastructure, Park Improvements, and Infrastructure System Improvements, Statewide)

NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED STATE PARKS INFRASTRUCTURE PROJECTS

## SECTION I. NOTICE OF SPECIAL APPEARANCE

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli of the island of Kauai, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding **Agenda Item L-1** ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to **State Parks Infrastructure and Park Improvements, Statewide** (\$2,000,000) and **Infrastructure System Improvements, Statewide** (\$3,325,000) under Division of State Parks (LMR 202).

This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water

rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Ancestral Kuleana over Wai, Kai, Wai Kai, Koa, Papa, and Wahi Pana;
5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## **SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION & AFFIRMATION OF THE RULE OF LAW**

Declarant hereby clarifies for the record: **Declarant is not opposed to lawful maintenance, necessary upkeep, or public infrastructure updates.** Rather, Declarant insists upon strict compliance with the **Rule of Law**, procedural due process, mandatory statutory reviews, and constitutional protections prior to the expenditure of public funds or physical ground disturbance.

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. **Procure, award, and enter into contracts** for plans, design, construction, utility upgrades, comfort station renovations, road paving, wastewater systems, and infrastructure improvements (\$5,325,000 total across LMR 202 allocations) prior to public board review of park-specific site plans, archaeological inventory surveys, and environmental evaluations;
2. **Unilaterally declare construction exempt** from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for heavy park infrastructure, excavation, drainage modifications, and utility trenching near sacred sites without public contested case opportunities or board review; and
3. **Bypass site-specific public oversight** over ground disturbance, heavy vehicle access, subsurface utility installations, and commercialization of sacred wahi pana across State Parks on Kauai (specifically Wailua River State Park), Maui (e.g., Puua Kaa, Hana Wayside), Oahu (e.g., Keaiwa Heiau, Diamond Head, Sand Island), and Hawaii Island (e.g., Hapuna Beach, Kekaha Kai).

### SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. **Ancestral Kuleana over State Park Lands, Sacred Wahi Pana, and the Wailua Heiau Complex:** The state park lands targeted for infrastructure projects—most notably **Wailua River State Park** and the broader **Wailua Complex of Heiau** (a designated National Historic Landmark)—encompass sacred royal centers, ancient temple structures, and sacred birthplaces. Declarant holds direct ancestral **Kuleana**—an inherent, non-delegable duty and lineage-based authority—to protect and preserve these lands, waters, and sacred sites under the Rule of Law.
2. **Specific Wailua Heiau Structures and High Probability of Iwi Kupuna:**
  - **Wailua Sacred Complex:** The Wailua River corridor encompasses prominent heiau and sacred sites, including **Malae Heiau** (the massive coastal temple near the river mouth), **Hikinaakala Heiau** and **Hauola City of Refuge** (situated at the muliwai/river mouth on coastal sand dunes), **Holoholooku Heiau** and the sacred **Pohaku ohanau** (Royal Birthstones), **Poliahu Heiau** (overlooking the river valley), **Pihanakalani**, and **Ka Lae**
  - **High Probability of Iwi Kupuna & Documented Past Finds:** The coastal sand dunes (*one*), sandy riverbanks, and alluvial flats of Wailua have an established, documented history of containing high concentrations of ancestral burials (*iwi kupuna*). Extensive past finds, inadvertent exposures during storm events, and historical archaeological records confirm that unmonitored trenching, utility excavation, or ground disturbance within Wailua River State Park carries an extremely high probability of disturbing intact, unmarked *iwi kupuna*.
3. **Systemic Environmental and Cultural Protection of State Park Resources:** The state park footprints encompass vital environmental and cultural resources: freshwater streams (*wai*), ocean waters (*kai*), brackish discharge (*wai kai*), living coral structures (*koa* and *papa*), sand dunes (*one*), estuaries (*muliwai*), and native species, including **honu** (green sea turtle), **i a** (native fish), **limu** (seaweed), and **pueo** (short-eared owl). Heavy construction, unvetted wastewater line trenching, or unmonitored earthmoving near heiau complexes directly threatens the physical, ecological, and legal protections guaranteed to these sacred domains.
4. **Evidentiary Submission of Lineal Standing:**
  - **Direct Lineal Descent & Ancestral Lineages:** Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (*O iwi o Ku u iwi*,

*o koko o Ku u koko*). Declarant direct paternal ancestral lineage traces directly through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.

- **Direct Ancestral Lineage of William Kualu:** Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born on the island of Niihau to Kawahi (Kauahi), married to Helen Liawahine Haupu. William Kualu is the father of Declarant great-grandmother, Helen Lahapa Kamakaeha Kualu; who is the mother of Declarant grandmother, Aileen Kawaikini Ipac; who is the mother of Declarant mother, Darlene Joyce Rita.
- **Incorporation of Historical Record & Lineal Authority:** To establish formal standing under HRS Sections 1-1, 7-1, 172-11, and 172-12, Declarant incorporates into the public administrative record the peer-reviewed study by Janet Kaeo Bradford (2008), *A Reference Guide to Maikai Na Kuahiwi, A Chant by William Kualu* (Master Thesis, University of Hawaii at Manoa); archival materials preserved within the Bishop Museum Na Mele Welo collection; and historical documentation from *The Garden Island* newspaper (Sept. 16, 1953).
- **Authority and Preserved Rights:** William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. His chant, "Maikai Na Kuahiwi," serves as an established historical mapping of sacred geography (*wahi pana*) and water systems across Kauai. As a direct lineal descendant carrying the bloodlines of Nahinu Malama and William Kualu, Declarant holds inherited, vested tenant rights (*Ua Koe Nae Na Kuleana O Na Kanaka*) running with land, water, and ancestral resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.

5. **Objection to Unvetted State Park Infrastructure Projects:** Declarant formally objects to Item L-1 CIP funding authorizations (\$5,325,000 total) and delegation for State Parks Infrastructure and Improvement projects where park-specific project lists, site schematics, environmental assessments, and cultural protection plans have been omitted from the administrative record prior to board authorization.

6. **Inadequacy of Administrative Record:** The Item L-1 submittal fails to provide location-specific engineering plans, environmental review documents under HRS Chapter 343, or complete Archaeological Inventory Surveys under HRS Chapter 6E to protect Malae, Hikinaakala, Holoholoku, Poliahu, burial sand dunes (*one*), historic stone masonry, and subterranean features situated within park boundaries.

## SECTION IV. APPLICATION OF KONANE AND MAKAWALU TO STATE PARK INFRASTRUCTURE

## A. Konane Analysis (Strategic Land Mapping & Multi-Generational Impact)

*Konane* demands evaluating state park development as strategic moves on an interconnected landscape:

1. **Intensive Ground Disturbance vs. Sacred Sites:** Installing underground septic tanks, deep utility lines, or paved parking areas near the Wailua Heiau Complex or Keaiwa Heiau risks permanent physical disruption of unrecorded burials (*iwi kupuna*) and ancestral structural foundations.
2. **Subsurface Hydrology & Runoff:** Paving and ground modification increase non-point source pollution and stormwater runoff, carrying contaminants into adjacent streams (*wai*) and coastal waters (*kai*), injuring nearshore **koa**, **papa**, **i a**, and **limu**.

## B. Makawalu Analysis (Eight-Fold Multi-Perspective Perception)

1. **Sacred Geography & Wahi Pana:** Protection of ancient stone structures (**Malae, Hikinaakala, Holoholokā, Poliahu, Pihanakalani**), *pāhaku* (sacred stones), and burial sand dunes (*one*).
2. **Protection of Ancestral Burials (Iwi Kupuna):** Enforcing strict burial site procedures under HRS Chapter 6E given the high density of past burial finds in Wailua sand dunes and coastal deposits.
3. **Terrestrial & Avian Ecosystems:** Safeguarding native vegetation and habitat for coastal and mountain fauna, including the **pueo**.
4. **Freshwater Hydrology (Wai):** Protection of Wailua River stream channels, waterfalls (e.g., Puaa Kaa), and riparian aquifers from wastewater seepage or construction runoff.
5. **Coastal & Marine Interfaces (Kai, Wai Kai, Koa, Papa):** Preventing park runoff from degrading coastal waters, coral reefs, and **honu** foraging areas at the Wailua river mouth (*muliwai*).
6. **Subsurface Voids & Caves:** Mapping lava tubes and subterranean caverns prior to heavy machinery operation or footing excavation.
7. **Customary & Traditional Access:** Ensuring park infrastructure projects do not restrict or monetize traditional Kanaka Maoli access for gathering, religious ceremonies, or cultural practices.
8. **Rule of Law & Statutory Integrity:** Requiring full compliance with HRS Chapters 6E, 91, and 343 prior to project execution or delegation.

## SECTION V. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing State Parks Infrastructure is subject to a continuous hierarchy of legal obligations:

- **A. Hawaiian Kingdom Law Foundation**

- *He Kumu Kanawai* (1839): "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected).
- *Kumukanawai* (1840): Establishes constitutional protections for persons and property, ensuring rights in land and resources remain protected.
- *Mahele Principles*: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land distributions remained subject to tenant rights.
- *Civil Code of 1859*: Codifies appurtenant rights, water rights, and traditional tenant usage.
- **B. United States Federal Framework**
  - Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.
  - National Historic Preservation Act (54 U.S.C. Â§ 300101 et seq.): Federal protections for National Historic Landmarks, including the Wailua Complex of Heiau.
  - Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.
  - First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.
- **C. Hawaii State Constitution**
  - Article I, Section 1: Inalienable rights to life, liberty, property, and safety.
  - Article XI, Section 1 & 9: Public Trust Doctrine governing natural, cultural, and historical resources.
  - Article XII, Section 7: Mandatory protection of traditional and customary Native Hawaiian rights.
- **D. Hawaii Revised Statutes**
  - HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.
  - HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water and natural resources.
  - HRS Chapters 91, 343, 6E, and 6E-43: Administrative Procedure Act, Environmental Impact Statements, Historic Preservation, and Burial Site Protections.

## **SECTION VI. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (STATE PARKS)**

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment for each state park location:

- **Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:** The Board must explicitly identify all cultural, historical, surface, or subsurface resources within each targeted park footprint—including **Malae, Hikinaakala, Holoholokā, Poliahu, Pihanakalani**, known burial dunes (*one*), native species (**pueo, honu, i a**), and customary practices (*Ka Paakai*, 94 Haw. at 47; *Kalipi*, 66 Haw. 1; *Pele Defense Fund*, 73 Haw. 578).
- **Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:** The Board must evaluate the extent to which identified resources, sacred heiau structures, *iwi kupuna*, and customary practices will be affected or impaired by excavation, paving, utility trenching, or construction (*Ka Paakai*, 94 Haw. at 47).
- **Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:** The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including non-invasive subsurface mapping (GPR), mandatory archaeological monitoring by qualified personnel, zero-disturbance buffer zones around heiau complexes, and unimpeded cultural access (*Ka Paakai*, 94 Haw. at 47; *PASH*, 79 Hawaii 425).

## SECTION VII. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval for LMR 202 (State Parks Infrastructure and System Improvements):

1. Location-specific project lists, engineering plans, and construction designs for all targeted park sites, specifically detailing any proposed work at Wailua River State Park;
2. Complete Archaeological Inventory Surveys (AIS) approved by the State Historic Preservation Division (SHPD) and Burial Treatment Plans under HRS Chapter 6E for each park footprint;
3. Subsurface ground-penetrating radar (GPR) and void mapping reports for areas subject to excavation within known high-probability burial zones (e.g., Wailua sand dunes);
4. HRS Chapter 343 environmental evaluations or formal exemption justifications;
5. Cultural Impact Assessments (CIA) and formal *Ka Paakai* analytical findings; and
6. Runoff, wastewater management, and non-point source pollution prevention plans.

## SECTION VIII. PRAYER FOR RELIEF

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out **State Parks Infrastructure and System Improvements (\$5,325,000 under LMR 202)** from the blanket delegation of authority under **Agenda Item L-1**;
2. Defer administrative action, procurement, or contract execution regarding state park projects pending completion and publication of site-specific project records;
3. Uphold the **Rule of Law** and disallow unvetted park excavation, trenching, paving, or wastewater construction prior to full environmental, archaeological, and cultural review;
4. Enforce ancestral **Kuleana** and adopt Kānane strategic land mapping and Makawalu eight-fold protection criteria;
5. Complete statutory environmental (HRS Chapter 343) and historic preservation (HRS Chapter 6E) reviews;
6. Execute and publish the mandatory three-part *Ka Paakai* analysis for each park location; and
7. Protect persons, property, public health and safety, sacred wahi pana (**Malae, Hikinaakala, Holoholoku, Poliahu, Pihanakalani**), *iwi kupuna*, native wildlife (**pueo, honu, i a, limu**), living reef systems (**koa and papa**), and inherited tenant rights.

DATED: Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea Malama Cummings Na Kanaka, Hooilina, Hoaaina,  
Kanaka Maoli Kauai Mokupuni All Rights Reserved Without Prejudice

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[EXTERNAL] IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 801 - Lump Sum Improvement at Boating & Oc...

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From Roslyn Cummings <roslyncummings@ymail.com>

Date Fri 7/24/2026 6:43 AM

To DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAII

IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 801 - Lump Sum Improvement at Boating & Ocean Recreation Facilities, Statewide)

NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED BOATING AND OCEAN RECREATION FACILITY PROJECTS

## SECTION I. NOTICE OF SPECIAL APPEARANCE

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli of the island of Kauai, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding **Agenda Item L-1** ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to **Lump Sum Improvement at Boating & Ocean Recreation Facilities, Statewide** (\$4,100,000 under LMR 801).

This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Ancestral Kuleana over Wai, Kai, Wai Kai, Koa, and Papa;
5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## **SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION**

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. **Procure, award, and enter into contracts** for design and construction of boat ramps, docks, piers, fenders, pavement, comfort stations, harbor office renovations, wastewater systems, drainage, and utilities (\$4,100,000) prior to public board review of facility-specific engineering plans and marine environmental evaluations;
2. **Unilaterally declare construction exempt** from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for shoreline, harbor, wastewater, and marine infrastructure projects without public contested case opportunities or board review; and
3. **Bypass site-specific public oversight** over coastal ground disturbance, marine pile driving, dredging, wastewater utility expansion, and unvetted runoff discharge into coastal waters across Kauai and statewide.

## **SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING**

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. **Ancestral Kuleana over Shoreline, Papa, Koa, and Coastal Marine Systems:** The coastal boating facilities, harbors, ramps, nearshore marine waters, and ocean access corridors targeted for improvements encompass wahi pana, ancient fishing grounds (*koa*), reef foundations (*papa*), coastal gathering

trails, and ancestral marine ecosystems. Declarant holds direct ancestral **Kuleana**—an inherent, non-delegable duty and lineage-based authority—to protect and preserve these ocean and shoreline environments.

2. **Systemic Ecological Protection of Marine and Coastal Life:** The nearshore ocean waters (*kai*), freshwater springs (*pana wai*), brackish coastal discharge (*wai kai*), sand systems (*one*), and estuary river mouths (*muliwai*) across Kauai and statewide encompass protected ancestral environments. These marine domains directly nurture native aquatic life, including **honu** (green sea turtle), **i a** (reef and pelagic fish species), **limu** (native marine algae/seaweed), **pueo** (short-eared owl inhabiting coastal corridors), and the foundational living structure of **koa** (coral heads) and **papa** (coral reef flats).

3. **Evidentiary Submission of Lineal Standing:**

- **Direct Lineal Descent & Ancestral Lineages:** Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (*O iwi o Ku u iwi, o koko o Ku u koko*). Declarant direct paternal ancestral lineage traces directly through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.
- **Direct Ancestral Lineage of William Kualu:** Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born on the island of Niihau to Kawahi (Kauahi), married to Helen Liawahine Haupu. William Kualu is the father of Declarant great-grandmother, Helen Lahapa Kamakaeha Kualu; who is the mother of Declarant grandmother, Aileen Kawaikini Ipac; who is the mother of Declarant mother, Darlene Joyce Rita.
- **Incorporation of Historical Record & Lineal Authority:** To establish formal standing under HRS Sections 1-1, 7-1, 172-11, and 172-12, Declarant incorporates into the public administrative record the peer-reviewed study by Janet Kaeo Bradford (2008), *A Reference Guide to Maikai Na Kuahiwi, A Chant by William Kualu* (Master Thesis, University of Hawaii at Manoa); archival materials preserved within the Bishop Museum Na Mele Welo collection; and historical documentation from *The Garden Island* newspaper (Sept. 16, 1953).
- **Authority and Preserved Rights:** William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. His chant, "Maikai Na Kuahiwi," serves as an established historical mapping of sacred geography (*wahi pana*) and water systems across Kauai. As a direct lineal descendant carrying the bloodlines of Nahinu Malama and William Kualu, Declarant holds inherited, vested tenant rights (*Ua Koe Nae Na Kuleana O Na Kanaka*) running with land, water, and marine resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.

4. **Objection to Unvetted Coastal Infrastructure Projects:** Declarant formally objects to Item L-1 CIP funding authorizations (\$4,100,000) and delegation for Boating and Ocean Recreation Facilities—including boat ramps, docks, piers, harbor renovations, wastewater installations, and drainage modifications—where facility-specific project lists, environmental assessments, and marine cultural protection plans have been omitted from the administrative record prior to board authorization.
5. **Inadequacy of Administrative Record:** The Item L-1 submittal fails to provide exact facility location lists, site-specific engineering schematics, environmental review documents under HRS Chapter 343, Coastal Zone Management clearances under HRS Chapter 205A, or complete Archaeological Inventory Surveys to protect potential coastal burial sites (*iwi kupuna*) or historic fishpond structures.

## **SECTION IV. CASE REFERENCES: KÄ«KÄ«AOLA HARBOR DITCH POLLUTION AND WAIMEA WASTEWATER SPILL FALLOUT**

To demonstrate the catastrophic consequences, real-world injury, and systemic risks of unvetted harbor drainage, unmonitored coastal wastewater, and unmitigated state/county infrastructure failures, Declarant incorporates the following facts and ongoing regulatory fallouts as primary case references:

### **A. Case Reference 1: Clean Water Act Violation and Settlement (KÄ«kÄ«aola Harbor Drain & MÄ«nÄ« Plain Ditches)**

- **Factual Precedent:** Federal court litigation (*NÄ« KiaÊ»i Kai and Surfrider Foundation v. County of KauaÊ»i and HawaiÊ»i Department of Health*) established that the KÄ«kÄ«aola Small Boat Harbor Drain and agricultural drainage ditches on the MÄ«nÄ« Plain were unlawfully discharging untreated, toxic runoff directly into the nearshore waters of KÄ«kÄ«aola Harbor.
- **Contaminant Fallout:** Chemical testing revealed high concentrations of pesticides, petroleum products, heavy metals, and fecal indicator bacteria discharging into subsistence fishing grounds and surf breaks.
- **Reef & Resource Injury:** Toxic runoff from these unmonitored drains smothers and suffocates living **koa** (coral heads) and **papa** (reef flats), destroys habitat for **i a** (fish) and **honu** (sea turtles), contaminates **limu** (seaweed) gathering grounds, and poses acute health risks to Kanaka Maoli exercising customary gathering and swimming rights.

### **B. Case Reference 2: The April 2026 Waimea Wastewater Treatment Plant Spill into KÄ«kÄ«aola Harbor**

- **Factual Precedent:** On April 10–11, 2026, severe storm events and excessive Infiltration & Inflow (I&I) caused a catastrophic breakdown at the

Waimea Wastewater Treatment Plant, resulting in a spill of approximately 140,000 gallons of wastewater directly entering Kāʻaola Small Boat Harbor.

- **Immediate Environmental Fallout & Injury:** The injection of 140,000 gallons of effluent into the enclosed harbor basin forced emergency postings of public contamination warnings, forced the closure of ocean activities, and exposed nearshore **koa**, **papa**, and marine fauna to high pathogen loads.
- **Demonstrated Systemic Vulnerability:** This recent failure proves that state and county harbor, drainage, and wastewater infrastructure in West Kauai is operating at or beyond capacity, making any unvetted expansion or delegation of boating facility improvements without rigorous HRS Chapter 343 and Clean Water Act review an immediate threat to public safety and marine ecosystems.

## SECTION V. APPLICATION OF KONANE AND MAKAWALU TO SHORELINE & MARINE INFRASTRUCTURE

### A. KONANE Analysis (Strategic Coastal Mapping & Cascading Environmental Foresight)

*Konane* requires evaluating coastal engineering as a strategic sequence where physical interventions in nearshore waters ripple across entire shoreline ecosystems:

1. **Nearshore to Offshore Dynamics:** Shoreline hardening, pier construction, or boat ramp extensions disrupt longshore sand (*one*) transport, altering coastal erosion rates on adjacent beaches and traditional gathering areas.
2. **Subsurface Wastewater to Reef Health:** Upgrading or disturbing coastal wastewater systems and drainage outlets directly impacts nearshore water chemistry. Leaching nutrients or heavy harbor runoff trigger toxic algal blooms, destroying coral reef flats (*papa*) and coral heads (*koa*).
3. **Cascading Marine Food Web Injury:** Disruption of nearshore nursery habitats at estuaries (*muliwai*) and harbor mouths directly impairs marine subsistence gathering (*lawai a*) and reduces fish (*i a*) stock recruitment across the ahupuaa.

### B. Makawalu Analysis (Eight-Fold Multi-Perspective Environmental Review)

1. **Ocean Hydrology & Currents (Kai):** Impacts of piers, docks, and dredging on local current circulation, wave action, and sediment transport.
2. **Coastal Aquifers & Freshwater Discharge (Wai, Wai Kai, Pana Wai):** Interactions between coastal groundwater discharge and marine harbor infrastructure.
3. **Living Coral & Reef Integrity (Koa & Papa):** Direct injury to living coral heads (*koa*), foundational reef structures (*papa*), native fish habitat (*i'a*), green sea turtles (*honu*), and seaweed gathering grounds (*limu*).

4. **Wastewater & Contaminant Fallout Management:** Evaluation of harbor wastewater, fuel dock containment, effluent overflows, and stormwater runoff discharge into public waters.
5. **Avian & Coastal Terrestrial Species Protection:** Impacts of light pollution, noise, and coastal clearing on the **pueo** (short-eared owl), all **Manu maoli** and seabird nesting corridors.
6. **Traditional Marine Kuleana & Gathering Rights:** Preservation of traditional access to fishing grounds (*koa*), fishponds (*loko i a*), and shoreline gathering paths (*one*).
7. **Public Trust & Coastal Zone Governance:** Legal obligations under Article XI, Section 1 & 6 of the Hawaii State Constitution and Coastal Zone Management laws (HRS Chapter 205A).
8. **Intergenerational Marine Security (Hooilina):** Protecting clean marine waters, abundant reef fisheries, and intact shorelines for future generations.

## SECTION VI. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing Boating and Ocean Recreation Facilities is subject to a continuous hierarchy of legal obligations:

- **A. Hawaiian Kingdom Law Foundation**
  - *He Kumu Kanawai (1839)*: "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected); "Ua hoopaaia hoi ka palekana i na kanaka a pau" (Protection is secured to all people).
  - *Kumukanawai (1840)*: Establishes constitutional protections for persons and property, ensuring rights in land, water, and ocean resources remain protected.
  - *Mahele Principles*: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land and sea distributions remained subject to tenant rights.
  - *Civil Code of 1859*: Codifies appurtenant rights, fisheries, water rights, and traditional tenant usage.
- **B. United States Federal Framework**
  - Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.
  - Clean Water Act (33 U.S.C. Â§ 1251 et seq.): Prohibits unpermitted point-source discharges into navigable waters.
  - Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.
  - First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.
- **C. Hawaii State Constitution**
  - Article I, Section 1: Inalienable rights to life, liberty, property, and safety.

- Article XI, Section 1 & 6: Public Trust Doctrine governing natural resources and public marine waters.
- Article IX, Section 10: Protection and preservation of public health, safety, persons, and property against environmental harm and marine pollution.
- **D. Hawaii Revised Statutes**
  - HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.
  - HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water, marine, and resource materials.
  - HRS Chapters 91, 205A (CZM), 343, 6E, and 6E-43: Administrative Procedure Act, Coastal Zone Management, Environmental Impact Statements, Historic Preservation, and Burial Site Protections.

## **SECTION VII. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (BOATING FACILITIES)**

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment for each boating facility:

- **Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:** The Board must explicitly identify all cultural, historical, coastal, or marine resources within each targeted harbor or ramp footprint—including traditional fishing grounds (*koa*), reef flats (*papa*), **limu** gathering zones, **ia** nurseries, **honu** habitat, corridors, and customary practices in the area (*Ka Paakai*, 94 Haw. at 47; *Kalipi*, 66 Haw. 1; *Pele Defense Fund*, 73 Haw. 578).
- **Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:** The Board must evaluate the extent to which identified marine resources, water quality, living **koa**, **papa**, and customary gathering practices will be affected or impaired by pile driving, dredging, wastewater construction, runoff discharge, or dock expansions (*Ka Paakai*, 94 Haw. at 47).
- **Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:** The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including turbidity curtains, marine mammal and **honu** monitoring, wastewater containment, NPDES permit compliance, and traditional access preservation (*Ka Paakai*, 94 Haw. at 47; *PASH*, 79 Hawaii 425).

## **SECTION VIII. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1**

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval for LMR 801 (Lump Sum Improvement at Boating & Ocean Recreation Facilities, Statewide):

1. Facility-specific project lists, engineering plans, and coastal construction designs;
2. Comprehensive NPDES drainage permits and water quality discharge studies addressing ditch runoff and effluent risks;
3. Coastal Zone Management (CZM) consistency determinations and Army Corps permits under HRS Chapter 205A;
4. Archaeological Inventory Surveys (AIS) and Burial Treatment Plans for all coastal construction footprints under HRS Chapter 6E;
5. HRS Chapter 343 environmental evaluations or formal exemption justifications;
6. Cultural Impact Assessments (CIA) evaluating impacts on **i'a, honu, limu, ko'a, and papa**; and
7. Wastewater management, marine turbidity control, and emergency spill response plans.

## **SECTION IX. PRAYER FOR RELIEF**

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out **Lump Sum Improvement at Boating & Ocean Recreation Facilities, Statewide (\$4,100,000 under LMR 801)** from the blanket delegation of authority under **Agenda Item L-1**;
2. Defer administrative action, procurement, or contract execution regarding boating facilities pending completion and publication of site-specific project records;
3. Disallow unvetted coastal excavation, dredging, pile driving, wastewater construction, or drainage discharge prior to full environmental, marine, and cultural review;
4. Enforce ancestral **Kuleana** and adopt Kāne's strategic coastal analysis and Makawalu eight-fold marine protection criteria;
5. Complete statutory environmental (HRS Chapter 343), Coastal Zone Management (HRS Chapter 205A), and historic preservation (HRS Chapter 6E) reviews;
6. Execute and publish the mandatory three-part *Ka Paakai* analysis for each facility site; and
7. Protect persons, property, public health and safety, nearshore marine waters (*kai*), living coral (*koa*), reef flats (*papa*), native wildlife (**i a, honu, pueo, limu**), and inherited tenant rights.

DATED: Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea Malama Cummings Na Kanaka, Hooilina, Hoaaina,  
Kanaka Maoli Kauai Moku-puni All Rights Reserved Without Prejudice

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[EXTERNAL] IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 407 - Watershed Protection and Initiatives...

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From Roslyn Cummings <roslyncummings@ymail.com>

Date Fri 7/24/2026 6:34 AM

To DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED WATERSHED PROTECTION PROJECTS

SECTION I. NOTICE OF SPECIAL APPEARANCE

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaina, and Kanaka Maoli of the island of Kauai, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding Agenda Item L-1 ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to Watershed Protection and Initiatives, Statewide (\$10,000,000 under LMR 407).

This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Water rights and protections governing Wai and Waiwai;
5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. Procure, award, and enter into contracts for plans, land acquisition, design, construction, fencing, heavy equipment deployment, and infrastructure installation (\$10,000,000) prior to public board review of site-specific locations, hydrological assessments, and native ecosystem impacts;
2. Unilaterally declare construction exempt from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for extensive watershed fencing, access road creation, or infrastructure construction without public contested case opportunities or board review; and
3. Bypass site-specific public oversight over ground disturbance, fencing alignments, land acquisitions, and hydrological management across high-elevation watersheds on Kauai and statewide.

## SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. Cultural, Sacred, and Historical Status of Watershed Lands:

The high-elevation forested watersheds, headwaters, ridge lines, and surface-to-subsurface hydrological systems targeted for watershed initiatives encompass wahi pana, sacred birthplaces of water (Waialeale, Kokee, Waimea), and ancestral ecosystems deeply tied to traditional land stewardship, public health, and Hawaiian heritage.

2. Protection of Ecosystems, Ridge-to-Reef Hydrology, and Public Safety:

The forested watersheds, headwaters, surface streams, and underlying basal aquifers across Kauai and statewide encompass protected resources stewarded and relied upon by Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli from time immemorial. Unvetted infrastructure installation, fencing corridor clearing, or uncoordinated deep well drilling disrupts the natural balance between high-mountain fog drip, surface stream recharge, and subterranean aquifer replenishment.

3. Evidentiary Submission of Lineal Standing:

**Direct Lineal Descent & Ancestral Lineages:** Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (O iwi o Ku u iwi, o koko o Ku u koko). Declarant direct paternal ancestral lineage traces directly through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.

**Direct Ancestral Lineage of William Kualu:** Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born on the island of Niihau to Kawahi (Kauahi), married to Helen Liawahine Haupu. William Kualu is the father of Declarant great-grandmother, Helen Lahapa Kamakaeha Kualu; who is the mother of Declarant grandmother, Aileen Kawaikini Ipac; who is the mother of Declarant mother, Darlene Joyce Rita.

**Incorporation of Historical Record & Lineal Authority:** To establish formal standing under HRS Sections 1-1, 7-1, 172-11, and 172-12, Declarant incorporates into the public administrative record the peer-reviewed study by Janet Kao Bradford (2008), A Reference Guide to Maikai Na Kuahiwi, A Chant by William Kualu (Master Thesis, University of

Hawaii at Manoa); archival materials preserved within the Bishop Museum Na Mele Welo collection; and historical documentation from The Garden Island newspaper (Sept. 16, 1953).

Authority and Preserved Rights: William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. His chant, "Maikai Na Kuahiwi," serves as an established historical mapping of sacred geography (wahi pana) and water systems across Kauai. As a direct lineal descendant carrying the bloodlines of Nahinu Malama and William Kualu, Declarant holds inherited, vested tenant rights (Ua Koe Nae Na Kuleana O Na Kanaka) running with land and water resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.

#### 4. Objection to Unvetted Watershed Interventions:

Declarant formally objects to Item L-1 CIP funding authorizations (\$10,000,000) and delegation for Watershed Protection and Initiatives—including land acquisition, heavy fencing, helicopter drop zones, and infrastructure installations—where site-specific location lists, environmental assessments, and cultural protection plans have been omitted from the administrative record prior to board authorization.

#### 5. Inadequacy of Administrative Record:

The Item L-1 submittal fails to provide exact project location maps, site-specific engineering schematics, environmental review documents under HRS Chapter 343, or complete Archaeological Inventory Surveys to protect potential mountain shrines (heiau), trail markers, or unmarked burials (iwi kupuna) in watershed areas.

### SECTION IV. APPLICATION OF KŌNANE AND MAKAWALU TO HYDROLOGICAL & WELL INFRASTRUCTURE IMPACTS

The decision-making process governing watershed initiatives and well/infrastructure installation must be guided by traditional, time-tested Hawaiian analytical frameworks:

#### A. Kōnane Analysis (Strategic Spatial Interconnection and Multi-Generational Foresight)

Kōnane requires evaluating every administrative action as a strategic move across an interconnected board, anticipating cause-and-effect sequences across

space and time. A single point of intervention in high-elevation watersheds or deep aquifer levels reverberates across the entire board (Ahupuaa):

1. Upstream to Downstream Causality: Altering high-elevation watershed recharge zones directly impacts mid-elevation surface streams (mauka) and low-elevation coastal aquifers (makai).
2. Long-Term Structural Integrity of Well Infrastructure: Over decades, steel casings, grout seals, and deep well shafts corrode, crack, and fail due to volcanic soil acidity, saltwater exposure, and seismic activity.
3. Preferential Flow Paths: Unmaintained or abandoned well shafts act as permanent vertical conduits, bypassing natural filter layers (clay, soil, basalt) and allowing surface pollutants, agricultural runoff, and surface water contaminants to bypass natural filtration and directly enter the deep pristine basal water lens.

#### B. Makawalu Analysis (Eight-Fold Multi-Dimensional Perception)

Makawalu (eight-fold vision) demands examining watershed and well infrastructure projects from eight distinct, interrelated dimensions:

1. Surface Hydrology (Wai Lani & Wai Oli): Impacts on rainfall capture, fog drip, forest canopy interception, and headwater streamflow.
2. Subsurface Hydrology (Wai Honua): Impacts on deep basal freshwater lenses, confined aquifers, and natural underground pressure dynamics.
3. Ecological Synergy: Interdependence between native watershed forest canopies, soil retention, subterranean microfauna, and ocean discharge points (muliwai).
4. Geological Integrity: Mechanics of subsurface void spaces, lava tubes, basalt permeability, and structural stability around heavy drill sites.
5. Long-Term Engineering & Materials Lifespan: Degradation of casing materials, grouting breakdown, and catastrophic failure modes over 30, 50, and 100-year spans.
6. Socio-Cultural & Kuleana Rights: Preservation of traditional gathering rights, taro farming (kalo) water supply, and customary access along ancestral watersheds.
7. Legal & Public Trust Governance: Statutory obligations under Article XI, Sections 1 & 7 of the Hawaii State Constitution, ensuring water is preserved in perpetuity for the public and future generations.

8. Intergenerational Equity (Hooilina): Protection of ancestral health, water purity, and land integrity for generations yet unborn.

### C. Long-Term Impacts of Well Infrastructure: Above-Water to Below-Water Systems

When deep well infrastructure is installed or poorly maintained in watershed recharge zones:

Above-Ground Water Source Impact: Over-pumping or improper surface infrastructure changes surface runoff patterns, reduces baseflows in nearby streams, dries up perennial springs, and impairs traditional agricultural (auwai) systems.

Below-Ground Water Source Impact: Deep well shafts break through natural impermeable confining layers (caprock/perching layers). In the long run, casing failure allows saline water or lower-quality brackish water to upcone into pristine freshwater lenses, causing irreversible saltwater intrusion and contamination of whole aquifer systems.

## SECTION V. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing Watershed Protection and Initiatives is subject to a continuous hierarchy of legal obligations:

### A. Hawaiian Kingdom Law Foundation

He Kumu Kanawai (1839): "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected); "Ua hoopaaia hoi ka palekana i na kanaka a pau" (Protection is secured to all people).

Kumukanawai (1840): Establishes constitutional protections for persons and property, ensuring rights in land, water, and natural resources remain protected.

Mahele Principles: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land distributions remained subject to tenant rights.

Civil Code of 1859: Codifies appurtenant rights, water rights (Wai), and traditional tenant usage.

### B. United States Federal Framework

Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.

Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.

First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.

#### C. Hawaii State Constitution

Article I, Section 1: Inalienable rights to life, liberty, property, and safety.

Article XI, Section 1 & 7: Public Trust Doctrine governing all water resources for the benefit of the people.

Article IX, Section 10: Protection and preservation of public health, safety, persons, and property against environmental harm and contamination.

#### D. Hawaii Revised Statutes

HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.

HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water and resource materials.

HRS Chapters 91, 174C (State Water Code), 343, 6E, and 6E-43: Administrative Procedure Act, Water Code compliance, Environmental Impact Statements, Historic Preservation requirements, and Burial Site Protections.

### SECTION VI. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (WATERSHED INITIATIVES)

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment:

Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:

The Board must explicitly identify all cultural, historical, surface, or groundwater resources within each targeted watershed footprint—including headwater springs, wahi pana, gathering corridors, and customary practices taking place in the area (*Ka Paakai*, 94 Haw. at 47; *Kalipi*, 66 Haw. 1; *Pele Defense Fund*, 73 Haw. 578).

Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:

The Board must evaluate the extent to which identified water resources, forest canopy integrity, surface stream baseflows, and customary practices will be

affected or impaired by fencing, land acquisition, or infrastructure construction (Ka Paakai, 94 Haw. at 47).

Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:  
The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including Kōnane multi-generational foresight planning, Makawalu multi-perspective environmental monitoring, archaeological oversight, and ridge-to-reef streamflow protections (Ka Paakai, 94 Haw. at 47; PASH, 79 Hawaii 425).

## SECTION VII. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval for LMR 407 (Watershed Protection and Initiatives, Statewide):

1. Exact parcel maps, fencing corridors, and land acquisition details for all proposed watershed protection sites;
2. Kōnane and Makawalu hydrological impact assessments evaluating surface-to-subsurface water interactions and long-term well casing lifespans;
3. Archaeological Inventory Surveys (AIS) and Historic Preservation clearances under HRS Chapter 6E for all targeted watershed areas;
4. HRS Chapter 343 environmental evaluations or formal exemption justifications;
5. Cultural Impact Assessments (CIA) and formal Ka Paakai analytical findings; and
6. Comprehensive long-term aquifer and streamflow monitoring plans.

## SECTION VIII. PRAYER FOR RELIEF

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out Watershed Protection and Initiatives, Statewide (\$10,000,000 under LMR 407) from the blanket delegation of authority under Agenda Item L-1;
2. Defer administrative action, land acquisitions, procurement, or contract execution regarding watershed projects pending completion and publication of site-specific project records;
3. Disallow unvetted watershed fencing, land alteration, or infrastructure construction prior to full environmental, hydrogeological, and cultural

review;

4. Adopt and enforce Kōnane multi-generational strategic analysis and Makawalu eight-fold multi-perspective criteria;
5. Complete statutory environmental (HRS Chapter 343) and historic preservation (HRS Chapter 6E) reviews;
6. Execute and publish the mandatory three-part Ka Paakai analysis for each watershed site; and
7. Protect persons, property, public health and safety, pristine drinking water aquifers, surface headwaters, native ecosystems, and inherited tenant rights.

DATED: Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea Malama Cummings

Na Kanaka • Hooilina • Hoaaina • Kanaka Maoli

Kauai Moku-puni

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[EXTERNAL] IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 141 - Rockfall and Flood Mitigation, State...

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From Roslyn Cummings <roslyncummings@ymail.com>

Date Fri 7/24/2026 6:25 AM

To DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAII

IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 141 - Rockfall and Flood Mitigation, Statewide)

NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED ROCKFALL AND FLOOD MITIGATION PROJECTS

## SECTION I. NOTICE OF SPECIAL APPEARANCE

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli of the island of Kauai, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding **Agenda Item L-1** ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to **Rockfall and Flood Mitigation, Statewide** (\$4,000,000 under LMR 141).

This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Water rights and protections governing Wai and Waiwai;
5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## **SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION**

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. **Procure, award, and enter into contracts** for plans, design, and construction of rockfall netting, scaling, retention structures, rock-pinning, deep anchoring, channel diversions, and flood mitigation (\$4,000,000) prior to public board review of site-specific locations, engineering schematics, subsurface geological impacts, and cultural protections;
2. **Unilaterally declare construction exempt** from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for heavy terrain modification, deep rock drilling, and subsurface intervention without public contested case opportunities or board review; and
3. **Bypass site-specific public oversight** over heavy ground disturbance, hillside drilling, subterranean void fracturing, and water flow alterations on ancestral lands across Kauai and statewide.

## **SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING**

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. **Cultural, Sacred, and Historical Status of Hillside, Subsurface, and Riparian Lands:** The cliffside corridors, subterranean systems, inland ocean water caverns, subsurface freshwater aquifers, old underground plantation or historic infrastructure, and waterways targeted for rockfall and flood mitigation encompass wahi pana, ancient pathways, stream channels, lava tubes, and

ancestral ecosystems deeply tied to traditional land stewardship, water rights, burial protections (*iwi kupuna*), and Hawaiian heritage.

2. **Protection of Subsurface Hydraulics, Caverns, and Public Safety:** The natural rock faces, subterranean void systems, subsurface freshwater/saline dynamics, and soil stability across Kauai and statewide encompass protected resources stewarded and relied upon by Na Kanaka, Hooilina, Hoaina, and Kanaka Maoli from time immemorial. Heavy slope altering, rock drilling, anchor installation, grout injection, or stream channelization directly risks breaching intact subterranean cave systems, damaging historic underground water channels, contaminating subterranean water basins, or triggering severe slope collapse.

3. **Evidentiary Submission of Lineal Standing:**

- **Direct Lineal Descent & Ancestral Lineages:** Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (*O iwi o Ku u iwi, o koko o Ku u koko*). Declarant direct paternal ancestral lineage traces directly through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.
- **Direct Ancestral Lineage of William Kualu:** Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born on the island of Niihau to Kawahi (Kauahi), married to Helen Liawahine Haupū. William Kualu is the father of Declarant great-grandmother, Helen Lahapa Kamakaeha Kualu; who is the mother of Declarant grandmother, Aileen Kawaikini Ipac; who is the mother of Declarant mother, Darlene Joyce Rita.
- **Incorporation of Historical Record & Lineal Authority:** To establish formal standing under HRS Sections 1-1, 7-1, 172-11, and 172-12, Declarant incorporates into the public administrative record the peer-reviewed study by Janet Kaeo Bradford (2008), *A Reference Guide to Maikai Na Kuahiwi, A Chant by William Kualu* (Master Thesis, University of Hawaii at Manoa); archival materials preserved within the Bishop Museum Na Mele Welo collection; and historical documentation from *The Garden Island* newspaper (Sept. 16, 1953).
- **Authority and Preserved Rights:** William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. His chant, "Maikai Na Kuahiwi," serves as an established historical mapping of sacred geography (*wahi pana*) and water systems across Kauai. As a direct lineal descendant carrying the bloodlines of Nahinu Malama and William Kualu, Declarant holds inherited, vested tenant rights (*Ua Koe Nae Na Kuleana O Na Kanaka*) running with land and water resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.

4. **Objection to Unvetted Hillside and Subsurface Alterations:** Declarant formally objects to Item L-1 CIP funding authorizations (\$4,000,000) and delegation for Rockfall and Flood Mitigation—including slope scaling, anchor drilling, chemical grouting, rockfall netting, berm construction, and stream modifications—where site-specific location lists, subsurface geotechnical surveys, environmental assessments, and subterranean protection protocols have been omitted from the administrative record prior to board authorization.
5. **Inadequacy of Administrative Record:** The Item L-1 submittal fails to identify exact project locations, site-specific engineering schematics, environmental review documents under HRS Chapter 343, or complete subterranean/archaeological surveys to protect potential cave sites, lava tubes, inland water caverns, old underground infrastructure, or unmarked burials (*iwi kupuna*) on affected cliffside, subsurface, or riparian areas.

## SECTION IV. SPECIFIC SUBTERRANEAN AND CAVERN MITIGATION CRITERIA

To protect public safety, intact geological formations, subterranean ecology, and ancestral heritage, the Board must enforce the following mandatory mitigation criteria for all rockfall scaling, drilling, blasting, or flood mitigation activities prior to contract execution or work initiation:

1. **Non-Invasive Subsurface Geotechnical Mapping:** Mandatory pre-construction Ground Penetrating Radar (GPR), LiDAR, electrical resistivity tomography, or seismic reflection surveys must be conducted at all work sites to map void spaces, lava tubes, subterranean cave systems, inland ocean water caverns, and historical underground infrastructure prior to driving anchors, drilling, or blasting.
2. **Structural Buffer Zones Around Subterranean Voids & Caverns:** Establish mandatory exclusion zones and minimal set-back buffers (no heavy drilling, rock-pinning, or explosive scaling) surrounding identified cave entrances, lava tube roofs, and subterranean water bodies to prevent structural collapsing or subterranean void collapse.
3. **Prevention of Subsurface Hydrological Contamination & Disruption:** Strict prohibitions against the unvetted chemical grouting, slurry injection, or deep anchor drilling into subterranean water tables, inland ocean caverns, or basal aquifers. Construction designs must ensure that subterranean freshwater-saltwater interface dynamics, subterranean streams, and underground water flows are not diverted, blocked, or polluted.
4. **Protocols for Old Underground Infrastructure & Historic Waterways:** Identify and map historic underground infrastructure, including traditional auwai tunnels, old plantation water systems, stone drainage culverts, and historic underground chambers. Engineering designs must preserve structural

integrity and prevent collapse or inadvertent flooding caused by breaching historic drainage networks.

5. **Burial Protection & Cave Archaeological Monitoring:** Active, on-site archaeological monitoring by qualified personnel experienced in Hawaiian cave systems and *iwi kupuna* protection during all rock-drilling, scaling, or excavation activities near cliffs, overhangs, lava tubes, and sinkholes. In the event a cave chamber or subsurface void is opened, all work must cease immediately, and SHPD and lineal descendants must be notified under HRS Chapter 6E.

## SECTION V. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing Rockfall and Flood Mitigation is subject to a continuous hierarchy of legal obligations:

- **A. Hawaiian Kingdom Law Foundation**
  - *He Kumu Kanawai (1839)*: "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected); "Ua hoopaaia hoi ka palekana i na kanaka a pau" (Protection is secured to all people).
  - *Kumukanawai (1840)*: Establishes constitutional protections for persons and property, ensuring rights in land, water, and natural resources remain protected.
  - *Mahele Principles*: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land distributions remained subject to tenant rights.
  - *Civil Code of 1859*: Codifies appurtenant rights, water rights, subterranean rights, and traditional tenant usage.
- **B. United States Federal Framework**
  - Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.
  - Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.
  - First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.
- **C. Hawaii State Constitution**
  - Article I, Section 1: Inalienable rights to life, liberty, property, and safety.
  - Article IX, Section 10: Protection and preservation of public health, safety, persons, and property against environmental harm, contamination, and structural hazards.
- **D. Hawaii Revised Statutes**
  - HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.

- HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water and resource materials.
- HRS Chapters 91, 343, 6E, and 6E-43: Administrative Procedure Act, Environmental Impact Statements, Historic Preservation requirements, and Pre-Historic/Historic Burial Site Protections.

## **SECTION VI. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (ROCKFALL & FLOOD MITIGATION)**

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment for each mitigation site:

- **Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:** The Board must explicitly identify all cultural, historical, subterranean, or natural resources within each proposed rockfall or flood project footprint—including sacred cliffs, caves, lava tubes, inland water caverns, natural stream beds, and traditional gathering or water usage practices taking place in the area (*Ka Paakai*, 94 Haw. at 47; *Kalipi*, 66 Haw. 1; *Pele Defense Fund*, 73 Haw. 578).
- **Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:** The Board must evaluate the extent to which identified resources, subterranean void integrity, water courses, and customary practices will be affected or impaired by cliff scaling, netting installation, slope blasting, subterranean drilling, chemical grouting, or stream flow alteration (*Ka Paakai*, 94 Haw. at 47).
- **Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:** The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including non-invasive subsurface mapping, buffer zones around cave systems, archaeological monitoring, and natural subterranean water flow preservation (*Ka Paakai*, 94 Haw. at 47; *PASH*, 79 Hawaii 425).

## **SECTION VII. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1**

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval for LMR 141 (Rockfall and Flood Mitigation, Statewide):

1. Exact location maps, engineering designs, and structural plans for each proposed rockfall and flood mitigation site;

2. Non-invasive subterranean geotechnical survey reports (GPR/LiDAR) mapping void spaces, caves, lava tubes, and underground water structures;
3. Archaeological Inventory Surveys (AIS) and Burial Treatment Plans under HRS Chapter 6E for all targeted slope, subterranean, and riparian areas;
4. HRS Chapter 343 environmental documentation or formal exemption evaluations for each location;
5. Cultural Impact Assessments (CIA) and formal *Ka Paakai* analytical findings; and
6. Hydrological impact studies, subterranean aquifer protection plans, and slope stability analyses for each site.

## **SECTION VIII. PRAYER FOR RELIEF**

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out **Rockfall and Flood Mitigation, Statewide (\$4,000,000 under LMR 141)** from the blanket delegation of authority under **Agenda Item L-1**;
2. Defer administrative action, procurement, or contract execution regarding rockfall and flood projects pending completion and publication of site-specific project lists, subsurface cavern/void mapping, and administrative records;
3. Disallow unvetted hillside excavation, scaling, drilling, subterranean grouting, or stream modification prior to full environmental, geotechnical, and cultural review;
4. Adopt and enforce the Mandatory Subterranean and Cavern Mitigation Criteria outlined herein;
5. Complete statutory environmental (HRS Chapter 343) and historic preservation (HRS Chapter 6E) reviews for all specific sites;
6. Execute and publish the mandatory three-part *Ka Paakai* analysis for each project location; and
7. Protect persons, property, public health and safety, native ecosystems, subterranean water systems, intact cavern structures, and inherited rights.

DATED: Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea Malama Cummings

Na Kanaka, Hooilina, Hoaaina, Kanaka Maoli Kauai Mokupuni

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[EXTERNAL] IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 421 - West Kauai DLNR Resources Offices, K...

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From Roslyn Cummings <roslyncummings@ymail.com>

Date Fri 7/24/2026 6:20 AM

To DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAII

IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 421 - West Kauai DLNR Resources Offices, Kauai)

NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED DEVELOPMENT AT WEST KAUAI DLNR RESOURCES OFFICES IN HANAPEPE

## SECTION I. NOTICE OF SPECIAL APPEARANCE

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaina, and Kanaka Maoli of the island of Kauai, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding **Agenda Item L-1** ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to the **West Kauai DLNR Resources Offices in Hanapepe** (\$1,000,000 under LMR 421).

This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Water rights and protections governing Wai and Waiwai;
5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. **Procure, award, and enter into contracts** for plans, design, and construction of the West Kauai DLNR Resources Offices in Hanapepe (\$1,000,000) prior to public board review of site-specific plans and environmental evaluations;
2. **Unilaterally declare construction exempt** from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for facility and infrastructure upgrades without public contested case opportunities or board review; and
3. **Bypass site-specific public oversight** over ground-disturbing and structural activities in Hanapepe on ancestral Kauai lands.

### **SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING**

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. **Cultural, Sacred, and Historical Status of Hanapepe Lands:** The lands in Hanapepe encompass historic corridors, wahi pana, riverine systems, and ancestral ecosystems deeply tied to traditional land use, salt gathering, health, and Hawaiian heritage.
2. **Protection of Land, Resources, and Public Safety:** The ground resources, building footprint, and surrounding natural environment at the Hanapepe DLNR office location encompass protected resources stewarded and relied upon by Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli from time immemorial.
3. **Evidentiary Submission of Lineal Standing:**
  - **Direct Lineal Descent & Ancestral Lineages:** Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (*O iwi o Ku u iwi, o koko o Ku u koko*). Declarant direct paternal ancestral lineage traces directly through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.
  - **Direct Ancestral Lineage of William Kualu:** Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born on the island of Niihau to Kawahi (Kauahi), married to Helen Liawahine Haupu. William Kualu is the father of Declarant great-grandmother, Helen Lahapa Kamakaeha Kualu; who is the mother of Declarant grandmother, Aileen Kawaikini Ipac; who is the mother of Declarant mother, Darlene Joyce Rita.
  - **Incorporation of Historical Record & Lineal Authority:** To establish formal standing under HRS Sections 1-1, 7-1, 172-11, and 172-12, Declarant incorporates into the public administrative record the peer-reviewed study by Janet Kaeo Bradford (2008), *A Reference Guide to Maikai Na Kuahiwi, A Chant by William Kualu* (Master Thesis, University of Hawaii at Manoa); archival materials preserved within the Bishop Museum Na Mele Welo collection; and historical documentation from *The Garden Island* newspaper (Sept. 16, 1953).
  - **Authority and Preserved Rights:** William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. His chant, "Maikai Na Kuahiwi," serves as an established historical mapping of sacred geography (wahi pana) and water systems across Kauai. As a direct lineal descendant carrying the bloodlines of Nahinu Malama and William Kualu, Declarant holds inherited, vested tenant rights (*Ua Koe Nae Na Kuleana O Na Kanaka*) running with land and water resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.
4. **Objection to Unvetted Development and Construction:** Declarant formally objects to Item L-1 CIP funding authorizations (\$1,000,000) and delegation for the West Kauai DLNR Resources Offices in Hanapepe—including electrical, plumbing, roofing, security, fencing, air conditioning, and site ground upgrades—where environmental assessments, ground disturbance protocols, and

cultural protection plans have been omitted from the administrative record prior to board authorization.

5. **Inadequacy of Administrative Record:** The Item L-1 submittal fails to provide site-specific engineering schematics, environmental review documents under HRS Chapter 343, or complete Historic Preservation reviews under HRS Chapter 6E to protect potential historic structures or unmarked burials (*iwi kupuna*) in Hanapepe.

## SECTION IV. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing the West Kauai DLNR Resources Offices in Hanapepe is subject to a continuous hierarchy of legal obligations:

- **A. Hawaiian Kingdom Law Foundation**
  - *He Kumu Kanawai* (1839): "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected); "Ua hoopaaia hoi ka palekana i na kanaka a pau" (Protection is secured to all people).
  - *Kumukanawai* (1840): Establishes constitutional protections for persons and property, ensuring rights in land, water, and natural resources remain protected.
  - *Mahele Principles*: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land distributions remained subject to tenant rights.
  - *Civil Code of 1859*: Codifies appurtenant rights, water rights, and traditional tenant usage.
- **B. United States Federal Framework**
  - Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.
  - Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.
  - First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.
- **C. Hawaii State Constitution**
  - Article I, Section 1: Inalienable rights to life, liberty, property, and safety.
  - Article IX, Section 10: Protection and preservation of public health, safety, persons, and property against environmental harm, contamination, and structural hazards.
- **D. Hawaii Revised Statutes**
  - HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.
  - HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water and resource materials.
  - HRS Chapters 91, 343, 6E, and 6E-43: Administrative Procedure Act, Environmental Impact Statements, Historic Preservation requirements, and Pre-Historic/Historic Burial Site Protections.

## SECTION V. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (HANAPEPE DLNR OFFICES)

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment:

- **Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:** The Board must explicitly identify all cultural, historical, or natural resources within the Hanapepe facility footprint—including historic structures, nearby water corridors, and traditional practices taking place in the area (*Ka Paakai*, 94 Haw. at 47; *Kalipi*, 66 Haw. 1; *Pele Defense Fund*, 73 Haw. 578).
- **Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:** The Board must evaluate the extent to which identified resources and customary practices will be

affected or impaired by ground excavation, utility Trenching, or structural alterations (*Ka Paakai*, 94 Haw. at 47).

- **Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:** The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including archaeological monitoring during ground disturbance and historic preservation consultations (*Ka Paakai*, 94 Haw. at 47; *PASH*, 79 Hawaii 425).

## **SECTION VI. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1**

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval for LMR 421 (West Kauai DLNR Resources Offices in Hanapepe):

1. Detailed engineering designs, scope of work, and architectural plans for the Hanapepe facility upgrades;
2. Archaeological Inventory Surveys (AIS) or Historic Preservation clearances under HRS Chapter 6E;
3. HRS Chapter 343 environmental documentation or formal exemption documentation;
4. Cultural Impact Assessments (CIA) and formal *Ka Paakai* analytical findings; and
5. Facility infrastructure, electrical, plumbing, and drainage impact plans.

## **SECTION VII. PRAYER FOR RELIEF**

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out the **West Kauai DLNR Resources Offices in Hanapepe (\$1,000,000 under LMR 421)** from the blanket delegation of authority under **Agenda Item L-1**;
2. Defer administrative action, procurement, or contract execution regarding the Hanapepe office upgrades pending completion and publication of the administrative record;
3. Disallow unvetted excavation, trenching, or construction prior to full environmental and historic review;
4. Complete statutory environmental (HRS Chapter 343) and historic preservation (HRS Chapter 6E) reviews;
5. Execute and publish the mandatory three-part *Ka Paakai* analysis; and
6. Protect persons, property, public health and safety, native ecosystems, and inherited tenant rights.

DATED: Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea Malama Cummings Na Kanaka • Hooilina • Hoaaina • Kanaka Maoli Kauai  
Mokupuni All Rights Reserved Without Prejudice

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[EXTERNAL] IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 421 - West Kauai Baseyard Development, Kau...

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From Roslyn Cummings <roslyncummings@ymail.com>

Date Fri 7/24/2026 6:18 AM

To DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES STATE OF HAWAII

IN THE MATTER OF: July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 421 - West Kauai Baseyard Development, Kauai)

NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED DEVELOPMENT AT WEST KAUAI BASEYARD

## SECTION I. NOTICE OF SPECIAL APPEARANCE

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli of the island of Kauai, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding **Agenda Item L-1** ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to the **West Kauai Baseyard** project (\$8,000,000 under LMR 421).

This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Water rights and protections governing Wai and Waiwai;
5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## **SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION**

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. **Procure, award, and enter into contracts** for plans, design, and construction of the West Kauai Baseyard (\$8,000,000) prior to public board review of complete engineering schematics and cultural impacts;
2. **Unilaterally declare construction exempt** from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for heavy industrial baseyard expansion without public contested case opportunities or board review; and
3. **Bypass site-specific public oversight** over ground-disturbing activities on ancestral Kauai lands.

## **SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING**

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. **Cultural, Sacred, and Historical Status of West Kauai Lands:** The lands surrounding the West Kauai Baseyard encompass historic corridors, wahi pana, and ancestral ecosystems deeply tied to traditional land use, health, and Hawaiian heritage.
2. **Protection of Land, Resources, and Public Safety:** The ground resources, soil integrity, and surrounding natural environment at the baseyard location encompass protected resources stewarded and relied upon by Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli from time immemorial.
3. **Evidentiary Submission of Lineal Standing:**

- **Direct Lineal Descent & Ancestral Lineages:** Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (*O iwi o Ku'u iwi, o koko o Ku'u koko*). Declarant's direct paternal ancestral lineage traces directly through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.
  - **Direct Ancestral Lineage of William Kualu:** Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born on the island of Niihau to Kawahi (Kauahi), married to Helen Liawahine Haupu. William Kualu is the father of Declarant's great-grandmother, Helen Lahapa Kamakaeha Kualu; who is the mother of Declarant's grandmother, Aileen Kawaikini Ipac; who is the mother of Declarant's mother, Darlene Joyce Rita.
  - **Incorporation of Historical Record & Lineal Authority:** To establish formal standing under HRS Sections 1-1, 7-1, 172-11, and 172-12, Declarant incorporates into the public administrative record the peer-reviewed study by Janet "Kaeo" Bradford (2008), *A Reference Guide to "Maikai Na Kuahiwi," A Chant by William Kualu* (Master's Thesis, University of Hawaii at Manoa); archival materials preserved within the Bishop Museum Na Mele Welo collection; and historical documentation from *The Garden Island* newspaper (Sept. 16, 1953).
  - **Authority and Preserved Rights:** William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. His chant, "Maikai Na Kuahiwi," serves as an established historical mapping of sacred geography (wahi pana) and water systems across Kauai. As a direct lineal descendant carrying the bloodlines of Nahinu Malama and William Kualu, Declarant holds inherited, vested tenant rights (*Ua Koe Nae Na Kuleana O Na Kanaka*) running with land and water resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.
4. **Objection to Unvetted Development and Ground Disturbance:** Declarant formally objects to Item L-1 CIP funding authorizations (\$8,000,000) and delegation for the West Kauai Baseyard including ground disturbance, utility/appurtenance installations, and facility expansions"where environmental assessments, ground disturbance protocols, and cultural protection plans have been omitted from the administrative record prior to board authorization.
5. **Inadequacy of Administrative Record:** The Item L-1 submittal fails to provide site-specific engineering schematics, environmental review documents under HRS Chapter 343, or complete Archaeological Inventory Surveys to protect potential unmarked burials (*iwi kupuna*) or historic artifacts during baseyard expansion.

## SECTION IV. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing the West Kaua'i Baseyard is subject to a continuous hierarchy of legal obligations:

- **A. Hawaiian Kingdom Law Foundation**

- *He Kumu Kanawai (1839)*: "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected); "Ua hoopaaia hoi ka palekana i na kanaka a pau" (Protection is secured to all people).
- *Kumukanawai (1840)*: Establishes constitutional protections for persons and property, ensuring rights in land, water, and natural resources remain protected.
- *Mahele Principles*: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land distributions remained subject to tenant rights.
- *Civil Code of 1859*: Codifies appurtenant rights, water rights, and traditional tenant usage.

- **B. United States Federal Framework**

- Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.
- Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.
- First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.

- **C. Hawaii State Constitution**

- Article I, Section 1: Inalienable rights to life, liberty, property, and safety.
- Article IX, Section 10: Protection and preservation of public health, safety, persons, and property against environmental harm, contamination, and structural hazards.

- **D. Hawaii Revised Statutes**

- HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.
- HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water and resource materials.
- HRS Chapters 91, 343, 6E, and 6E-43: Administrative Procedure Act, Environmental Impact Statements, Historic Preservation requirements, and Pre-Historic/Historic Burial Site Protections.

## **SECTION V. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (WEST KAUAI BASEYARD)**

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment:

- **Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:** The Board must explicitly identify all cultural, historical, or natural resources within the West Kauai Baseyard expansion footprint's"including native flora, drainage corridors, historic sites, and *iwi kupuna*"and determine traditional practices taking place in the vicinity (*Ka Paakai*, 94 Haw. at 47; *Kalipi*, 66 Haw. 1; *Pele Defense Fund*, 73 Haw. 578).
- **Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:** The Board must evaluate the extent to which identified resources and customary practices will be affected or impaired by ground excavation, heavy construction, equipment staging, and expanded baseyard activities (*Ka Paakai*, 94 Haw. at 47).
- **Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:** The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including archaeological monitoring during excavation, buffer zones, and runoff mitigation (*Ka Paakai*, 94 Haw. at 47; *PASH*, 79 Hawaii 425).

## **SECTION VI. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1**

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval for LMR 421 (West Kauai Baseyard):

1. Detailed engineering designs, grading plans, and facility expansion schematics for the West Kaua'i Baseyard;
2. Archaeological Inventory Surveys (AIS) and Burial Treatment Plans under HRS Chapter 6E;
3. HRS Chapter 343 environmental documentation or justification for any claimed exemption;
4. Cultural Impact Assessments (CIA) and formal *Ka Paakai* analytical findings; and
5. Run-off control, drainage, and hazardous materials management plans for baseyard operations.

## **SECTION VII. PRAYER FOR RELIEF**

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out the **West Kaua'i Baseyard project (\$8,000,000 under LMR 421)** from the blanket delegation of authority under **Agenda Item L-1**;
2. Defer administrative action, procurement, or contract execution regarding the West Kaua'i Baseyard pending completion and publication of the administrative record;

3. Disallow unvetted excavation, grading, or heavy construction prior to full environmental and cultural review;
4. Complete statutory environmental (HRS Chapter 343) and historic preservation (HRS Chapter 6E) reviews;
5. Execute and publish the mandatory three-part *Ka Paakai* analysis; and
6. Protect persons, property, public health and safety, native ecosystems, and inherited tenant rights.

DATED: Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea Malama Cummings

Na Kanaka, Hooilina, Hoaaina, Kanaka Maoli Kauai Mokupuni All Rights Reserved  
Without Prejudice

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**[EXTERNAL] July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 202 - State Parks Infrastructure, Park Improvements, and Inf...**

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**From** Roslyn Cummings <roslyncummings@ymail.com>

**Date** Fri 7/24/2026 7:58 AM

**To** DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

BEFORE THE BOARD OF LAND AND NATURAL RESOURCES  
STATE OF HAWAII  
IN THE MATTER OF:

July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (LMR 202 - State Parks Infrastructure, Park Improvements, and Infrastructure System Improvements, Kekaha Kai State Park, North Kona, Hawaii Island)

NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED INFRASTRUCTURE PROJECTS AT KEKAHA KAI STATE PARK

SECTION I. NOTICE OF SPECIAL APPEARANCE

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding Agenda Item L-1 ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to State Parks Infrastructure, Park Improvements, and Infrastructure System Improvements under Division of State Parks (LMR 202) impacting Kekaha Kai State Park (including Mahaiula, Makalawena, and Maniniowali / Kua Bay), North Kona, Hawaii Island.

This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Ancestral Kuleana over Wai, Kai, Wai Kai, Koa, Papa, Pana Wai, One, and Wahi Pana;
5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION & AFFIRMATION OF THE RULE OF LAW

Declarant hereby clarifies for the record: Declarant is not opposed to lawful maintenance, necessary upkeep, or public infrastructure updates. Rather, Declarant insists upon strict compliance with the Rule of Law, procedural due process, mandatory statutory reviews, and constitutional protections prior to the expenditure of public funds or physical ground disturbance.

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. Procure, award, and enter into contracts for plans, design, construction, access road maintenance, gate installations, parking lot work, comfort station renovations, utility upgrades, wastewater systems, and infrastructure improvements at Kekaha Kai State Park prior to public board review of site-specific engineering plans, archaeological inventory surveys, and environmental evaluations;
2. Unilaterally declare construction exempt from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for park infrastructure, heavy machinery access, road paving, utility trenching, and coastal lava/dune modifications without public contested case opportunities or board review; and
3. Bypass site-specific public oversight over ground disturbance, heavy vehicle traffic, subsurface utility installations, and commercialization within the exceptionally sensitive coastal ecosystems, anchialine pond networks, and archaeological complexes of Kekaha Kai.

## SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. Ancestral Kuleana over Kekaha Kai, North Kona Coastal Lands, and Ecosystems:

The coastal wilderness, anchialine ponds, and ancient trails targeted for state park infrastructure projects across Kekaha Kai State Park (encompassing Mahaiula, Makalawena, and Maniniowali) represent irreplaceable cultural landscapes, royal fishing grounds, and sacred burial corridors. Declarant holds direct ancestral Kuleana—an inherent, non-delegable duty and lineage-based authority—to protect and preserve these lands, waters, and sacred sites under the Rule of Law.

2. Liawahine Lineage to Hawaii Island & Chief Kaikioewa as Hanai Father of Kauikeaouli:

Liawahine Lineage to Hawaii Island: Declarant's ancestral bloodlines trace directly through the Liawahine lineage rooted in Hawaii Island (including Ookala, Hamakua, Kohala, and Kona districts).

Chief Kaikioewa & Kauikeaouli (Kamehameha III): Within the Kualu ancestral lineage, Chief Kaikioewa served as the honored hanai father and kahu to Kauikeaouli (Kamehameha III). Kaikioewa held governing authority across Kona and North Kona, establishing a direct genealogical, historical, and cultural obligation (kuleana) to safeguard ancestral coastal lands across Kekaha Kai.

3. High Density of Archaeological Sites, Fragile Anchialine Ponds, & Iwi Kupuna in Kekaha Kai:

Anchialine Pond Networks (Wai Kai): Kekaha Kai State Park, particularly around Makalawena and Mahaiula, contains world-class, extremely fragile brackish anchialine pond ecosystems (wai kai). These ponds host endemic species, sub-surface freshwater springs (pana wai), and historical aquaculture/gathering grounds that are vulnerable to road runoff, dust, wastewater seepage, and ground compaction.

High Density of Wahi Pana & Ancestral Burials: The coastal sand dunes (one), lava fields, and coastal caves of Kekaha Kai contain an extraordinary density of prehistoric and historic Native Hawaiian archaeological sites, including the ancient Ala Kahakai trail system, stone house platforms, heiau, fishing shrines (ko a), and burials (iwi kupuna). Unmonitored trenching, heavy road grading,

parking area expansion, or utility trenching carries an extremely high probability of disturbing intact, unmarked iwi kupuna.

#### 4. Systemic Environmental Protection of Coastal, Marine, and Hydrological Systems:

The Kekaha Kai park footprint encompasses vital natural resources: subterranean freshwater springs (pana wai), ocean waters (kai), brackish anchialine ecosystems (wai kai), sand dunes (one), living coral structures (koa and papa), and native species, including honu (green sea turtle), i a (native fish), limu (seaweed), and pueo (short-eared owl). Heavy vehicle traffic, unvetted park expansions, or inadequate waste disposal threaten the delicate ecological balance of North Kona's coastline.

#### 5. Evidentiary Submission of Lineal Standing:

**Direct Lineal Descent & Ancestral Lineages:** Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (O iwi o Ku u iwi, o koko o Ku u koko). Declarant's direct paternal ancestral lineage traces through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.

**Direct Lineage through William Kualu & Helen Liawahine Haupū:** Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born to Kawahi (Kauahi), married to Helen Liawahine Haupū (carrying the Hawaii Island Liawahine lineage). William Kualu is the father of Declarant's great-grandmother, Helen Lahapa Kamakaeha Kualu; mother of Declarant's grandmother, Aileen Kawaikini Ipac; mother of Declarant's mother, Darlene Joyce Rita.

**Authority and Preserved Rights:** William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. As a direct lineal descendant carrying the bloodlines of Nahinu Malama, William Kualu, Liawahine, and the Kualu ancestral connections to Kaikioewa, Declarant holds inherited, vested tenant rights (Ua Koe Nae Na Kuleana O Na Kanaka) running with land, water, and ancestral resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.

#### 6. Objection to Unvetted Kekaha Kai Infrastructure Projects:

Declarant formally objects to Item L-1 CIP funding authorizations and delegations for Kekaha Kai State Park where site-specific project engineering plans, anchialine pond mitigation protocols, environmental assessments, and cultural protection plans have been omitted from the administrative record prior to board authorization.

### SECTION IV. APPLICATION OF KONANE AND MAKAWALU TO KEKAHA KAI INFRASTRUCTURE

#### A. Konane Analysis (Strategic Land Mapping & Multi-Generational Impact)

Konane demands evaluating Kekaha Kai development as strategic moves on an interconnected landscape:

1. **Intensive Ground Disturbance vs. Anchialine & Archaeological Sites:** Road grading, heavy machinery movement, or comfort station trenching near Makalawena, Mahaiula, or Maniniowali risks permanent physical destruction of unrecorded burials (iwi kupuna), ancient trail alignments, and fragile anchialine pond basins (wai kai).
2. **Subsurface Hydrology & Runoff:** Unpaved access road modifications or new paving can redirect dust, gravel, and automotive petroleum runoff into subterranean freshwater channels (pana wai), causing irreversible harm to anchialine organisms and nearshore coral reef health (koa and papa).

#### B. Makawalu Analysis (Eight-Fold Multi-Perspective Perception)

1. **Sacred Geography & Ancient Trails:** Protection of historic stone trails (Ala Kahakai), house sites, fishing shrines, and royal grounds.
2. **Protection of Ancestral Burials (Iwi Kupuna):** Enforcing strict burial site procedures under HRS Chapter 6E given the high density of coastal cave and sand dune burial complexes in North Kona.
3. **Terrestrial & Avian Ecosystems:** Safeguarding native coastal strand vegetation and habitat for the pueo.
4. **Anchialine & Freshwater Hydrology (Wai, Wai Kai, Pana Wai):** Direct protection of brackish anchialine ponds and subterranean freshwater springs from sedimentation, fuel runoff, or wastewater seepage.

5. Coastal & Marine Interfaces (Kai, Koa, Papa): Preventing park runoff or heavy visitor use from degrading nearshore coral reefs and habitat for honu, i a, and limu.
6. Subsurface Voids & Lava Tubes: Comprehensive mapping of subterranean lava tubes and coastal caves prior to road heavy grading or infrastructure footings.
7. Customary & Traditional Access: Ensuring state park access policies or gating do not restrict traditional Kanaka Maoli access for subsistence gathering, fishing, or religious practice.
8. Rule of Law & Statutory Integrity: Requiring full compliance with HRS Chapters 6E, 91, 205A, and 343 prior to project execution or delegation.

## SECTION V. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing Kekaha Kai infrastructure is subject to a continuous hierarchy of legal obligations:

### A. Hawaiian Kingdom Law Foundation

He Kumu Kanawai (1839): "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected).

Kumukanawai (1840): Establishes constitutional protections for persons and property, ensuring rights in land and resources remain protected.

Mahele Principles: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land distributions remained subject to tenant rights.

Civil Code of 1859: Codifies appurtenant rights, water rights, and traditional tenant usage.

### B. United States Federal Framework

Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.

Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.

First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.

### C. Hawaii State Constitution

Article I, Section 1: Inalienable rights to life, liberty, property, and safety.

Article XI, Section 1 & 9: Public Trust Doctrine governing natural, cultural, and historical resources.

Article XII, Section 7: Mandatory protection of traditional and customary Native Hawaiian rights.

### D. Hawaii Revised Statutes

HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.

HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water and natural resources.

HRS Chapter 205A: Coastal Zone Management Act protecting coastal ecosystems, sand dunes, and historic resources.

HRS Chapters 91, 343, 6E, and 6E-43: Administrative Procedure Act, Environmental Impact Statements, Historic Preservation, and Burial Site Protections.

## SECTION VI. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (KEKAHA KAI)

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment for Kekaha Kai State Park:

### Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:

The Board must explicitly identify all cultural, historical, surface, or subsurface resources within the Kekaha Kai footprint—including anchialine ponds (wai kai), Ala Kahakai trail segments, subterranean springs (pana wai), sand dunes (one), coastal caves, marine life (honu, i a, limu), living coral reefs (koa and papa), and customary practices (Ka Paakai, 94 Haw. at 47; Kalipi, 66 Haw. 1; Pele Defense Fund, 73 Haw. 578).

### Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:

The Board must evaluate the extent to which identified resources, iwi kupuna, anchialine ponds, ancient trails, and customary gathering will be affected or impaired by road grading, parking work, comfort station construction, or utility trenching (Ka Paakai, 94 Haw. at 47).

Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:

The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including non-invasive subsurface mapping (GPR), mandatory archaeological monitoring, anchialine pond buffer zones, strict erosion controls, and unimpeded cultural access (Ka Paakai, 94 Haw. at 47; PASH, 79 Hawaii 425).

SECTION VII. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval impacting Kekaha Kai State Park:

1. Location-specific project designs, engineering plans, and access road maintenance plans for Kekaha Kai State Park;
2. Archaeological Inventory Surveys (AIS) approved by the State Historic Preservation Division (SHPD) and Burial Treatment Plans under HRS Chapter 6E for Mahaiula, Makalawena, and Maniniowali;
3. Hydrological assessments and anchialine pond protection plans for project work near brackish ponds;
4. Subsurface ground-penetrating radar (GPR) and lava tube mapping reports for areas subject to ground disturbance;
5. HRS Chapter 343 environmental evaluations or formal exemption justifications;
6. Coastal Zone Management (HRS Chapter 205A) consistency assessments;
7. Cultural Impact Assessments (CIA) and formal Ka Paakai analytical findings; and
8. Runoff, dust suppression, and marine water quality protection plans.

SECTION VIII. PRAYER FOR RELIEF

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out all Kekaha Kai State Park projects and allocations from the blanket delegation of authority under Agenda Item L-1;
2. Defer administrative action, procurement, or contract execution regarding Kekaha Kai State Park pending completion and publication of site-specific project records;
3. Uphold the Rule of Law and disallow unvetted excavation, road grading, trenching, or construction prior to full environmental, archaeological, and cultural review;
4. Enforce ancestral Kuleana and adopt Konane strategic land mapping and Makawalu eight-fold protection criteria;
5. Complete statutory environmental (HRS Chapter 343), coastal zone (HRS Chapter 205A), and historic preservation (HRS Chapter 6E) reviews;
6. Execute and publish the mandatory three-part Ka Paakai analysis for Kekaha Kai State Park; and
7. Protect persons, property, public health and safety, anchialine ponds (wai kai), iwi kupuna, ancient trails, marine life (honu, i a, limu), living reef systems (koa and papa), and inherited tenant rights.

DATED:

Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea

Malama Cummings

Na Kanaka • Hooilina • Hoaaina • Kanaka Maoli

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[EXTERNAL] Exhibit L-1.pdf (Page 5 of 10) Division of State Parks — Parks Administration and Operation (LNR 806) STATE PARKS INFRASTRUCTURE IMPROVEMENTS, LUMP SUM, STATEWIDE (FF) - PART 1 Alaka'i

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From Roslyn Cummings <roslyncummings@ymail.com>

Date Thu 7/23/2026 8:52 PM

To DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

**BEFORE THE BOARD OF LAND AND NATURAL  
RESOURCES  
STATE OF HAWAII  
IN THE MATTER OF:**

**State Parks & Watershed Protection Infrastructure  
Improvements (Lump Sum, Statewide), Alakai Wilderness  
Preserve / Alakai Plateau Watershed, Kauai**

**NOTICE OF SPECIAL APPEARANCE; DECLARATION  
OF ROSLYN CUMMINGS; MEMORANDUM OF LAW;  
DEMAND FOR PRODUCTION OF RECORDS; AND  
FORMAL OBJECTION TO GALVANIZED FENCING IN  
ALAKAI WATERSHED**

**SECTION I. NOTICE OF SPECIAL APPEARANCE  
COMES NOW Roslyn Cummings, appearing in her capacity  
as Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli of the  
island of Kauai, and hereby enters this Special Appearance  
before the Board of Land and Natural Resources regarding  
state-funded infrastructure, watershed protection projects,  
ungulate fencing, and exclosures affecting the Alakai  
Wilderness Preserve and the Alakai Plateau Watershed.**

**This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.**

**All rights are expressly reserved, including but not limited to:**

- 1. Inherent and inalienable rights;**
- 2. Birthright and ancestral rights;**
- 3. Vested property rights;**
- 4. Water rights and protections governing Wai and Waiwai;**
- 5. Traditional and customary gathering rights;**
- 6. Religious and cultural rights; and**
- 7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.**

**This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.**

**SECTION II. DECLARATION OF ROSLYN CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING**  
**I, Roslyn Cummings, hereby declare under penalty of perjury as follows:**

**1. *Primary Watershed Status:***

**The Alakai Plateau represents one of the principal high-elevation watersheds and critical headwaters for the island of Kauai, supplying streams, aquifers, ecosystems, and downstream communities from mauka to makai.**

**2. *Cultural and Historical Significance:***

**The bogs, ridgelines, streams, local ecosystems, wahi pana, and sacred spaces within the Alakai Plateau encompass natural resources protected, stewarded, and relied upon by Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli from time immemorial.**

**3. *Evidentiary Submission of Lineal Standing (William Kualu):***

- a. Incorporation of Historical Record: To establish formal standing under HRS Sections 1-1, 7-1, 172-11, and 172-12, Declarant hereby incorporates into the public administrative record the peer-reviewed study by Janet "Kaeo" Bradford (2008), A Reference Guide to "Maikai Na Kuahiwi," A Chant by William Kualu (Master's Thesis, University of Hawaii at Manoa); archival materials preserved within the Bishop Museum Na Mele Welo collection; and historical documentation from The Garden Island newspaper (Sept. 16, 1953).**
- b. Ancestral Lineage: Declarant is a direct lineal descendant (Hooilina) of William Kualu (c. 1849-1953), born on the island of Niihau to Kawahi (Kauahi), married to Helen Liawahine Haupū, and father to Emily Kikaha, Abraham Waitata, William Kanakanui Jr., and Helen Lahapa-Kamakaeha.**
- c. Authority and Preserved Rights: William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. His chant, "Maikai Na Kuahiwi," serves as an established historical mapping of sacred geography (wahi pana) and water systems across Kauai. As his direct descendant, Declarant holds inherited, vested tenant rights (Ua Koe Nae Na Kuleana O Na Kanaka) running with the land and water resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.**

#### ***4. Objection to Galvanized Fencing Materials:***

**Declarant formally objects to the deployment of galvanized metal and heavy synthetic fencing in primary watershed environments. High-precipitation, acidic rainforest, and peat bog conditions accelerate the physical corrosion and chemical breakdown of 5-gauge zinc-coated galvanized steel wire. This degradation releases heavy-metal micro-particulates, rusted debris, and structural waste directly into high-elevation headwaters and forest habitats.**

#### ***5. Inadequacy of Administrative Record:***

**The project allocations within statewide Capital Improvement Project (CIP) lump-sum appropriations fail to provide specific geographical fence corridors, material degradation testing, environmental leaching assessments, cultural resource impacts, or end-of-life removal protocols, preventing meaningful public and administrative review.**

### **SECTION III. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS**

**Agency action governing the Alakai Watershed is subject to a continuous hierarchy of legal obligations:**

#### **A. Hawaiian Kingdom Law Foundation**

**- He Kumu Kanawai (1839): "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected); "Ua hoopaaia hoi ka palekana i na kanaka a pau" (Protection is secured to all people).**

**- Kumukanawai (1840): Establishes constitutional protections for persons and property, ensuring rights in land, water, and natural resources remain protected.**

**- Mahele Principles: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming land**

**distributions remained subject to tenant rights.**

- Civil Code of 1859: Codifies appurtenant rights, water rights, and traditional tenant usage.**

#### **B. United States Federal Framework**

- Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.**

- Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.**

- First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.**

#### **C. Hawaii State Constitution**

- Article I, Section 1: Inalienable rights to life, liberty, property, and safety.**

- Article I, Section 2: Inherent political power residing in the people.**

- Article IX, Section 10: State duty to protect public health, safety, and property against environmental contamination.**

#### **D. Hawaii Revised Statutes**

- HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.**

- HRS Section 7-1: Guarantees tenant rights to gather, access, and utilize water and resource materials.**

- HRS Sections 172-11 & 172-12: Mandates that patents and awards inure to the benefit of awardees and heirs, preserving appurtenant rights running with the land.**

- HRS Chapters 91, 343, and 6E: Administrative Procedure Act, Environmental Impact Statements, and Historic Preservation requirements.**

## **SECTION IV. RULE OF LAW AND EVIDENTIARY REQUIREMENTS**

**1. *Administrative Limits:***

**Agencies must operate strictly within delegated statutory authority and adhere to constitutional limits. The burden of proof rests entirely on the agency to demonstrate compliance, safety, and lack of harm prior to expending public funds or granting permits. See *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803); *Waiahole Ditch*, 94 Hawaii 97, 9 P.3d 409 (2000).**

**2. *Record Requirements:***

**To satisfy due process, the agency must place into the public administrative record:**

**Archaeological Inventory Surveys (AIS) under HRS Chapter 6E;**

**Cultural Impact Assessments (CIA) under HRS Chapter 6E and Ka Paakai;**

**Environmental evaluations under HRS Chapter 343;**

**Material leaching and corrosion studies for wet forest environments;**

**Exact engineering plans and geographic fence alignment maps; and**

**Chain of title and land status documentation.**

**SECTION V. FACTS OF LAW**

- 1. The Alakai Plateau is encompassed within watershed infrastructure allocations.**
- 2. Public CIP funds have been allocated for planning, design, and construction.**
- 3. Galvanized ungulate fencing is proposed within high-rainfall, high-elevation ecosystems.**
- 4. Corridor clear-cutting and long-term metal corrosion affect water quality, aquatic habitats, access routes, and cultural sites.**

**5. No site-specific environmental evaluation or material lifespan study has been entered into the record for the Alakai Plateau segment.**

## **SECTION VI. MANDATORY KA PAAKAI ANALYSIS (THREE-PART FRAMEWORK)**

**Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), state agencies are under an affirmative constitutional obligation under Article XII, Section 7 of the Hawaii Constitution to independently assess and preserve native Hawaiian traditional and customary practices, as well as the natural and cultural resources upon which those practices depend. The Board must satisfy each element of the mandatory three-part analytical framework on the administrative record prior to taking action:**

### ***Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:***

**The Board must explicitly identify the scope of valued cultural, historical, or natural resources within the project area—including headwaters, native fauna, flora, streams, and pristine ecosystems—and determine whether traditional and customary Hawaiian rights or practices (such as gathering, spiritual access, and water usage) are exercised in the Alakai region.**

**Authority: *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 47, 7 P.3d 1068, 1084 (2000); *Kalipi v. Hawaiian Trust Co.*, 66 Haw. 1, 656 P.2d 745 (1982) (protecting traditional gathering rights); *Pele Defense Fund v. Paty*, 73 Haw. 578, 837 P.2d 1247 (1992) (extending customary rights across broader ahupuaa boundaries).**

***Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:***

**The Board must evaluate the extent to which those identified natural, historical, and cultural resources—as well as traditional and customary practices—will be affected or impaired by the proposed action, including physical land clearing along fence corridors, access restrictions, and the chemical and heavy-metal corrosion of galvanized fencing materials within critical headwater ecosystems.**

**Authority: *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 47, 7 P.3d 1068, 1084 (2000); *In re Water Use Permit Applications (Waiahole Ditch)*, 94 Hawaii 97, 141, 9 P.3d 409, 453 (2000) (mandating public trust protections over natural water resources).**

***Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:***

**The Board must specify feasible actions and enforceable mitigation measures to be taken to minimize or prevent impairment of natural resources and traditional practices, including evaluating non-corroding, non-toxic fencing alternatives or non-invasive management protocols.**

**Authority: *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 47, 7 P.3d 1068, 1084 (2000); *Public Access Shoreline Hawaii (PASH) v. Hawaii County Planning Commission*, 79 Hawaii 425, 903 P.2d 1246 (1995) (holding state agencies responsible for protecting native Hawaiian rights to the extent feasible).**

**SECTION VII. CITATION OF AUTHORITY**

***Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000) (Mandatory agency duty to independently evaluate and protect traditional cultural practices and natural resources).**

**Kalipi v. Hawaiian Trust Co., 66 Haw. 1, 656 P.2d 745 (1982) (Protection of gathering rights under HRS Section 7-1).**

**Pele Defense Fund v. Paty, 73 Haw. 578, 837 P.2d 1247 (1992) (Extension of customary rights beyond specific ahupuaa boundaries).**

**In re Water Use Permit Applications (Waiahole Ditch), 94 Hawaii 97, 9 P.3d 409 (2000) (Precautionary principle governing state water and natural resource protection).**

**Public Access Shoreline Hawaii (PASH) v. Hawaii County Planning Commission, 79 Hawaii 425, 903 P.2d 1246 (1995) (State's affirmative obligation to preserve traditional rights and resources).**

**Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803) (Acts inconsistent with constitutional law are void).**

## **SECTION VIII. DEMAND FOR PRODUCTION OF RECORDS**

**Declarant demands that the Board produce and enter into the public administrative record:**

- 1. Detailed project specifications and geographical maps for all proposed Alakai infrastructure;**
- 2. Engineering reports on fencing corrosion rates and heavy-metal leaching in wet bog environments;**
- 3. Maintenance, decommissioning, and material disposal plans;**
- 4. HRS Chapter 343 environmental review documentation;**
- 5. HRS Chapter 6E historic preservation filings, AIS, and CIA reports;**
- 6. Formal Ka Paakai analytical findings regarding natural resources and cultural practices; and**
- 7. Hydrological impact assessments regarding stream runoff.**

## **SECTION IX. PRAYER FOR RELIEF**

**WHEREFORE, Declarant respectfully requests that the Board:**

- 1. Defer administrative action regarding fence allocations or permitting in the Alakai Plateau pending production of a complete administrative record;**
- 2. Disallow the use of short-lived, galvanized fencing materials prone to corrosion and chemical breakdown in high-elevation headwaters;**
- 3. Publish all technical, environmental, and cultural studies for public review;**
- 4. Complete statutory environmental (HRS Chapter 343) and historic preservation (HRS Chapter 6E) reviews;**
- 5. Execute and publish the mandatory three-part Ka Paakai analysis;**
- 6. Issue written Findings of Fact and Conclusions of Law prior to project authorization; and**
- 7. Protect water quality, natural resources, and inherited tenant rights in the Alakai watershed.**

**DATED: Kalaheo, Kauai, Hawaii, July 23, 2026.**

**Respectfully submitted,**

**Roslyn Cummings**

**Na Kanaka • Hooilina • Hoaaina • Kanaka Maoli**

**Kauai Mokupuni**

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**[EXTERNAL] Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (Division of Forestry and Wildlife DOFAW LMR 103 / LMR 108 - Watershed Protection, F...**

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**From** Roslyn Cummings <roslyncummings@ymail.com>

**Date** Fri 7/24/2026 8:10 AM

**To** DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

**BEFORE THE BOARD OF LAND AND NATURAL RESOURCES**

**STATE OF HAWAII**

**IN THE MATTER OF:**

July 24, 2026 BLNR Agenda Item L-1: Delegation of Authority to Procure, Award, and Execute Contracts, Exempt/Approve Environmental Assessments, and Exhibit 1 CIP Appropriation (Division of Forestry and Wildlife DOFAW LMR 103 / LMR 108 - Watershed Protection, Forest Reserve Infrastructure, Ungulate Fencing, and Native Ecosystem Allocations, Hawaii Island and Statewide)

**NOTICE OF SPECIAL APPEARANCE; DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS; MEMORANDUM OF LAW; DEMAND FOR PRODUCTION OF RECORDS; AND FORMAL OBJECTION TO AGENDA ITEM L-1 AND UNVETTED FORESTRY AND WATERSHED PROJECTS**

**SECTION I. NOTICE OF SPECIAL APPEARANCE**

COMES NOW Roslyn Nicole Manawaiakea Malama Cummings, appearing in her capacity as Na Kanaka, Hooilina, Hoaaina, and Kanaka Maoli, and hereby enters this Special Appearance before the Board of Land and Natural Resources regarding Agenda Item L-1 ("Delegation of Authority to the Chairperson to Procure, Award, and Enter into Professional Services Consultant Contracts... Approve Environmental Assessments... and Enter into Goods, Services, and Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1") specifically as it pertains to Watershed Protection, Forest Reserve Infrastructure, Ungulate Fencing, Access Road Construction, and Native Habitat Projects under Division of Forestry and Wildlife (DOFAW - LMR 103 / LMR 108) impacting native forest sanctuaries (Wao Akua and Wao Kele), high-elevation watersheds, and traditional gathering corridors across Hawaii Island and statewide. This appearance is entered strictly as a Special Appearance and shall not be construed, interpreted, or deemed a general appearance, nor shall it constitute consent to any broader jurisdictional claims over vested property rights, water rights, gathering rights, access rights, religious practices, cultural rights, hereditary rights, or ancestral rights.

All rights are expressly reserved, including but not limited to:

1. Inherent and inalienable rights;
2. Birthright and ancestral rights;
3. Vested property rights;
4. Ancestral Kuleana over Wai, Kai, Wai Kai, Koa, Papa, Pana Wai, and Wahi Pana;
5. Traditional and customary gathering rights;
6. Religious and cultural rights; and
7. Statutory protections under Hawaii Revised Statutes (HRS) Sections 1-1, 7-1, 172-11, and 172-12.

This filing is submitted pursuant to the Constitutional Right to Petition, Right to Redress of Grievances, Right to Due Process, the Rule of Law, and applicable rules of evidence.

## SECTION II. SPECIFIC OBJECTION TO AGENDA ITEM L-1 DELEGATION & EMPHATIC AFFIRMATION OF FULL SUPPORT FOR NATIVE MAOLI SPECIES PROTECTION

Declarant hereby clarifies for the record: Declarant is fully and unreservedly committed to the absolute protection, preservation, regeneration, and flourishing of ALL native Maoli flora and fauna. As a Kanaka Maoli lineal descendant, Declarant holds an inherent, sacred duty to defend and nurture all endemic and indigenous species (ka poe ola o ka aina).

Furthermore, Declarant is not opposed to lawful maintenance, genuine conservation, or necessary public infrastructure updates. Rather, Declarant insists upon strict compliance with the Rule of Law, procedural due process, mandatory statutory reviews, and constitutional protections prior to the expenditure of public funds or physical ground disturbance. True protection of native Maoli species cannot be achieved by violating the very laws designed to safeguard cultural landscapes, burials, and delicate forest hydrology.

Declarant formally objects to Agenda Item L-1 insofar as it seeks to blanket-delegate authority to the Chairperson to:

1. Procure, award, and enter into contracts for plans, design, heavy land clearing, fence corridor bulldozing, post driving, access road construction, helicopter landing zone staging, and structural installations in forest reserves prior to public board review of location-specific site plans, archaeological inventory surveys, and environmental evaluations;
2. Unilaterally declare forest fence lines and reserve construction exempt from Environmental Assessments or issue Findings of No Significant Impact (FONSI) under HRS Chapter 343 for heavy machinery access, forest canopy removal, and earthmoving in sensitive high-elevation watersheds without public contested case opportunities or board review; and
3. Bypass site-specific public oversight over traditional gathering access (Kalipi rights), cultural transit along ancient mountain trails, historic hunting access, and protection of unrecorded burials (iwi kupuna) in remote forest sanctuaries.

## SECTION III. DECLARATION OF ROSLYN NICOLE MANAWAIAKEA MALAMA CUMMINGS & EVIDENTIARY SUBMISSION OF LINEAL STANDING

I, Roslyn Nicole Manawaiakea Malama Cummings, hereby declare under penalty of perjury as follows:

1. Ancestral Kuleana over Native Forest Sanctuaries (Wao Akua), Sacred Watersheds, and Native Maoli Species:

The intact high-elevation native rainforests, watershed reserves, and mountain corridors of Hawaii Island represent sacred realms (Wao Akua and Wao Kele) that shelter our precious native Maoli birds, plants, and ecosystems. Declarant stands as an ardent defender of all native Maoli species. Declarant holds direct ancestral Kuleana—an inherent, non-delegable duty and lineage-based authority—to protect and preserve these watershed reserves, native species, and sacred lands under the Rule of Law.

2. Liawahine Lineage to Hawaii Island & Chief Kaikioewa as Hanai Father of Kauikeaouli:

Liawahine Lineage to Hawaii Island: Declarant's ancestral bloodlines trace directly through the Liawahine lineage rooted in Hawaii Island (including Ookala, Hamakua, Kohala, and Kona districts).

Chief Kaikioewa & Kauikeaouli (Kamehameha III): Within the Kualu ancestral lineage, Chief Kaikioewa served as the honored hanai father and kahu to Kauikeaouli (Kamehameha III). Kaikioewa held governing authority across Hawaii Island, establishing a direct genealogical, historical, and cultural obligation (kuleana) to safeguard watershed reserves, native forest sanctuaries, and ancestral land tenure across Moku O Keawe.

3. High Probability of Cultural Sites, Trails, & Burials (Iwi Kupuna) in Watershed Reserves:

Ancient Mountain Trail Systems & Heiau Sites: High-elevation forest reserves across Kohala, Hamakua, Hilo, Puna, Kau, and Kona contain preserved ancient footpaths, temporary stone shelters, bird-catching

stations, adze quarrying sites, and sacred stone cairns (wahi pana). Ground disturbance for fence corridors, road grading, or heavy equipment staging risks permanent physical destruction of these unrecorded historic sites.

Burials in Forest Lava Tubes and Caves: High-elevation forest lava tube systems and cave openings frequently serve as sacred burial vaults (iwi kupuna). Bulldozing fence lines or driving heavy metal fence posts over unmapped volcanic voids carries an immediate risk of collapsing burial caves or disturbing human remains.

#### 4. Systemic Environmental Protection of Native Maoli Species & Coastal Interdependence:

While Declarant vigorously supports native Maoli conservation, project implementation must avoid unintended environmental harm. Unvetted heavy machinery and bulldozing can introduce invasive species, vectors, and soil compaction that harm native forest birds, including the pueo (short-eared owl). Furthermore, high-elevation watershed health directly dictates down-gradient freshwater discharge (pana wai and wai kai), which sustains nearshore living coral reefs (koa and papa), native fish (i a), green sea turtles (honu), and native seaweed (limu).

#### 5. Evidentiary Submission of Lineal Standing:

Direct Lineal Descent & Ancestral Lineages: Declarant is a direct lineal descendant (Hooilina) bound by sacred blood and bone (O iwi o Ku u iwi, o koko o Ku u koko). Declarant's direct paternal ancestral lineage traces through her father, Edmund Francis Malama Jr.; her grandfather, Edmund Francis Ku Malama Sr.; her great-grandfather, Joseph Ku Keoua Malama; her great-great-grandfather, Ku Nahinu; and her ancestral patriarch, Nahinu Malama.

Direct Lineage through William Kualu & Helen Liawahine Haupū: Declarant is a direct lineal descendant of William Kualu (c. 1849-1953), born to Kawahi (Kauahi), married to Helen Liawahine Haupū (carrying the Hawaii Island Liawahine lineage). William Kualu is the father of Declarant's great-grandmother, Helen Lahapa Kamakaeha Kualu; mother of Declarant's grandmother, Aileen Kawaikini Ipac; mother of Declarant's mother, Darlene Joyce Rita.

Authority and Preserved Rights: William Kualu served as an Assistant Government Surveyor, Hawaiian schoolteacher, lua master, kumu hula, and kahuna. As a direct lineal descendant carrying the bloodlines of Nahinu Malama, William Kualu, Liawahine, and the Kualu ancestral connections to Kaikioewa, Declarant holds inherited, vested tenant rights (Ua Koe Nae Na Kuleana O Na Kanaka) running with land, water, and ancestral resources under Hawaiian Kingdom law, the Civil Code of 1859, and HRS Sections 1-1 and 7-1.

#### 6. Objection to Unvetted Forestry & Watershed Projects:

Declarant formally objects to Item L-1 CIP funding authorizations and delegations for DOFAW watershed and forestry projects on Hawaii Island where site-specific fence alignments, road corridors, environmental assessments, and traditional access impact plans have been omitted from the administrative record prior to board authorization.

### SECTION IV. APPLICATION OF KONANE AND MAKAWALU TO WATERSHED PROJECTS

#### A. Konane Analysis (Strategic Land Mapping & Multi-Generational Impact)

Konane demands evaluating forestry and watershed projects as strategic moves on an interconnected landscape:

1. Physical Fence Enclosures vs. Traditional Gathering Corridors: Erecting extensive high-density fencing without mapped pedestrian gates or access corridors cuts off Native Hawaiian practitioners from traditional gathering rights (Kalipi rights) guaranteed under law.
2. Heavy Machinery in Native Rainforests: Bulldozing fence corridors creates invasive weed vectors, destabilizes high-slope volcanic soils, and increases erosion into mountain streams (wai), contradicting the fundamental goal of protecting native Maoli species.

#### B. Makawalu Analysis (Eight-Fold Multi-Perspective Perception)

1. Sacred Geography & High Forests (Wao Akua): Preservation of sacred forest realms and untouched mountain sanctuaries that shelter native Maoli life.

2. Protection of Ancestral Burials (Iwi Kupuna): Enforcing strict burial site procedures under HRS Chapter 6E for all fence line bulldozing and road construction.
3. Terrestrial & Avian Ecosystems: Safeguarding pristine native canopy and habitat for endemic species and the pueo.
4. Freshwater Hydrology (Wai, Pana Wai): Protecting mountain stream headwaters, moss layers, and infiltration zones from heavy machinery compaction.
5. Down-Gradient Marine Impact (Kai, Koa, Papa): Ensuring forest land clearing does not cause siltation or muddy runoff into nearshore coral reef ecosystems (koa and papa).
6. Subsurface Voids & Lava Tube Systems: Mandatory geophysical testing for underground lava tubes prior to post driving or heavy machinery staging.
7. Customary Gathering & Access Rights: Guaranteeing step-overs, gates, and unimpeded access for traditional gathering of medicinal plants, timber, and cultural materials.
8. Rule of Law & Statutory Integrity: Requiring full compliance with HRS Chapters 6E, 91, 183C, 205A, and 343 prior to project execution or delegation.

## SECTION V. HIERARCHY AND BRIDGING OF LEGAL FRAMEWORKS

Agency action under Agenda Item L-1 governing DOFAW forestry and watershed projects is subject to a continuous hierarchy of legal obligations:

### A. Hawaiian Kingdom Law Foundation

He Kumu Kanawai (1839): "Ua malu ke kino o na kanaka a pau" (The persons of all people are protected).

Kumukanawai (1840): Establishes constitutional protections for land, timber, water, and tenant rights.

Mahele Principles: "Ua koe nae na kuleana o na kanaka" (The rights of the people are reserved), confirming tenant gathering rights in forest lands.

Civil Code of 1859: Codifies appurtenant rights, forest gathering rights, and water access.

### B. United States Federal Framework

Treaties of 1826 and 1849: Preserve rights of person, property, and quiet enjoyment.

Article VI, Clause 2 (Supremacy Clause): Mandates state compliance with supreme legal standards.

First, Fifth, and Fourteenth Amendments: Guarantee procedural due process, equal protection, and the right to petition for redress.

### C. Hawaii State Constitution

Article I, Section 1: Inalienable rights to life, liberty, property, and safety.

Article XI, Section 1 & 9: Public Trust Doctrine governing natural, forest, and historical resources.

Article XII, Section 7: Mandatory protection of traditional and customary Native Hawaiian rights.

### D. Hawaii Revised Statutes

HRS Section 1-1: Preserves Hawaiian judicial precedent and usage established prior to November 25, 1892.

HRS Section 7-1: Guarantees tenant rights to gather firewood, timber, thatch, and water.

HRS Chapter 183C: Conservation District land use regulations protecting forest zones.

HRS Chapters 91, 343, 6E, and 6E-43: Administrative Procedure Act, Environmental Impact Statements, Historic Preservation, and Burial Site Protections.

## SECTION VI. MANDATORY KA PAAKAI ANALYSIS FOR ITEM L-1 (WATERSHED & FORESTRY)

Pursuant to *Ka Paakai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3d 1068 (2000), the Board cannot delegate authority under Item L-1 without first satisfying its affirmative constitutional duty to complete a site-specific three-part assessment for DOFAW forestry and watershed projects:

### Part 1. Identification of Valued Cultural, Historical, or Natural Resources and Traditional Practices:

The Board must explicitly identify all cultural, historical, surface, or subsurface resources within proposed project footprints—including native Maoli species, mountain streams (wai), ancient trails, forest burial caves (iwi kupuna), native birds (pueo), marine life (honu, i a, limu), living coral reefs (koa and papa),

and customary gathering practices (Ka Paakai, 94 Haw. at 47; Kalipi, 66 Haw. 1; Pele Defense Fund, 73 Haw. 578).

Part 2. Assessment of Extent of Impairment to Cultural, Historical, and Natural Resources:

The Board must evaluate the extent to which identified native species, iwi kupuna, ancient trail corridors, and customary gathering rights will be affected or impaired by fence construction, bulldozing, access road clearing, or forest clearing (Ka Paakai, 94 Haw. at 47).

Part 3. Feasible Actions to Protect Natural Resources and Cultural Practices:

The Board must specify feasible actions and enforceable mitigation measures to prevent impairment, including pedestrian access gates, non-invasive corridor mapping, mandatory archaeological monitoring, invasive weed controls, and unimpeded tenant gathering access (Ka Paakai, 94 Haw. at 47; PASH, 79 Hawaii 425).

SECTION VII. DEMAND FOR PRODUCTION OF RECORDS UNDER ITEM L-1

Declarant demands that the Board produce and enter into the public administrative record prior to any delegation or contract approval impacting watershed and forestry reserves:

1. Location-specific project maps, fence line alignment plans, and road construction specifications for DOFAW watershed projects on Hawaii Island;
2. Archaeological Inventory Surveys (AIS) approved by the State Historic Preservation Division (SHPD) and Burial Treatment Plans under HRS Chapter 6E for proposed fence corridors and access roads;
3. Cultural Impact Assessments (CIA) evaluating impacts on traditional gathering rights (Kalipi rights) and trail access;
4. HRS Chapter 343 environmental evaluations or formal exemption justifications;
5. Biosecurity and invasive species mitigation protocols to prevent introducing alien species into native Maoli habitats during construction;
6. Conservation District Use Permits (CDUP) under HRS Chapter 183C; and
7. Formal three-part Ka Paakai analytical findings for each DOFAW project location.

SECTION VIII. PRAYER FOR RELIEF

WHEREFORE, Declarant respectfully requests that the Board:

1. Deny or carve out all DOFAW Watershed Protection, Forest Reserve, and Native Ecosystem projects from the blanket delegation of authority under Agenda Item L-1;
2. Defer administrative action, procurement, or contract execution regarding DOFAW forestry projects pending completion and publication of site-specific project records;
3. Uphold the Rule of Law and disallow unvetted ground disturbance, fence bulldozing, road clearing, or canopy removal prior to full environmental, archaeological, and cultural review;
4. Enforce ancestral Kuleana and adopt Konane strategic land mapping and Makawalu eight-fold protection criteria;
5. Complete statutory environmental (HRS Chapter 343), conservation district (HRS Chapter 183C), and historic preservation (HRS Chapter 6E) reviews;
6. Execute and publish the mandatory three-part Ka Paakai analysis for proposed forestry project sites; and
7. Protect persons, property, public health and safety, watershed health (wai), subterranean springs (pana wai), iwi kupuna, forest reserves (Wao Akua), all native Maoli species, native birds (pueo), marine life (honu, i a, limu), living reef systems (koa and papa), and inherited tenant gathering rights.

DATED: Kalaheo, Kauai, Hawaii, July 24, 2026.

Respectfully submitted,

Roslyn Nicole Manawaiakea Malama Cummings

Na Kanaka • Hooilina • Hoaina • Kanaka Maoli

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